

Tuolumne County Probation Department

Tuolumne County Probation Dept Policy Manual

CHIEF'S PREFACE

The Tuolumne County Probation Department Policy Manual is a dynamic document intended to serve as a reference and to provide policy direction for the operation of the department. As a dynamic tool it is reflective of current regulatory mandates and is subject to periodic changes and updates which will be completed pursuant to the department contract with Lexipol LLC.

The purpose of this policy manual is to ensure that all employees have a reference tool to guide performance and conduct while standardizing and improving department operations. The contents of this manual are limited to those duties and issues that affect department personnel and reflect the department's mission to utilize best practices in the important tasks and duties of the Probation Department.

It is the responsibility of all Department staff to become familiar with and adhere to the contents of this policy manual. Failure of department staff to know the contents of the Manual are not an acceptable defense should staff be subject to disciplinary action for violation of any of the policies contained herein. In situations that are not specifically addressed in this Manual staff is encouraged to seek guidance from a department manager and to always act with good judgment, common sense, and in a manner generally consistent with the mission of the department.

Staff is encouraged to read and become familiar with broader county policies and procedures as referenced in this Policy Manual.

The Policy Manual will be available electronically and easily accessible by staff at all times. This manual contains confidential department policy and should not be shared with individuals outside of the department. Safety is of utmost importance.

Linda Downey, Chief Probation Officer

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LAW ENFORCEMENT CODE OF ETHICS

As a law enforcement officer, my fundamental duty is to serve the community; to safeguard lives and property; to protect the innocent against deception, the weak against oppression or intimidation and the peaceful against violence or disorder; and to respect the constitutional rights of all to liberty, equality and justice.

I will keep my private life unsullied as an example to all and will behave in a manner that does not bring discredit to me or to my agency. I will maintain courageous calm in the face of danger, scorn or ridicule; develop self-restraint; and be constantly mindful of the welfare of others. Honest in thought and deed both in my personal and official life, I will be exemplary in obeying the law and the regulations of my department. Whatever I see or hear of a confidential nature or that is confided to me in my official capacity will be kept ever secret unless revelation is necessary in the performance of my duty.

I will never act officiously or permit personal feelings, prejudices, political beliefs, aspirations, animosities or friendships to influence my decisions. With no compromise for crime and with relentless prosecution of criminals, I will enforce the law courteously and appropriately without fear or favor, malice or ill will, never employing unnecessary force or violence and never accepting gratuities.

I recognize the badge of my office as a symbol of public faith, and I accept it as a public trust to be held so long as I am true to the ethics of police service. I will never engage in acts of corruption or bribery, nor will I condone such acts by other police officers. I will cooperate with all legally authorized agencies and their representatives in the pursuit of justice.

I know that I alone am responsible for my own standard of professional performance and will take every reasonable opportunity to enhance and improve my level of knowledge and competence.

I will constantly strive to achieve these objectives and ideals, dedicating myself to my chosen profession . . . law enforcement.

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MISSION STATEMENT

The Tuolumne County Probation Department, as a legally constituted arm of the Superior Court and a County Department, is an integral part of the County's Justice System. The Department's mission is to promote the health and safety of the community through programs of prevention, intervention, treatment and detention services. These are accomplished by:

- Enhancing Judicial decision making through assessment of juvenile and adult offender risks and needs
- Enforcing court orders and sanctions
- Engaging and prevention, intervention, and treatment collaboratives
- Moving Probationers to lawful self-sufficiency
- Supporting the rights of victims

The vision of the Tuolumne County Probation Department is to be a Probation Department respected as a leader in the juvenile and criminal justice systems by providing integrated, balanced services and solutions within community corrections resulting in a fair, just and safe community.

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Chapter 1 - Law Enforcement Role and Authority

Law Enforcement Authority

100.1 PURPOSE AND SCOPE

Probation officers are granted the authority to perform their function based on established legal authority. This department does not tolerate abuse of law enforcement authority.

100.2 PEACE OFFICER POWERS

Sworn members of this department shall be considered peace officers pursuant to Penal Code §830.5. The authority of any such peace officer extends to any place in the State of California while engaged in the performance of the duties of their respective employment and for the purpose of carrying out the primary function of their employment, as follows:

- (a) All juveniles who come within the jurisdiction of the Probation Department as defined by Welfare and Institutions Code Sections 601, 602 and 625.
- (b) To conditions of parole, probation, post release community supervision, mandatory supervision or pre-trial supervision by any person in this state on parole, probation, or post release community supervision, and mandatory supervision or pre-trial supervision.
- (c) To the escape of any inmate or ward from a state or local institution.
- (d) To the transportation of persons on parole, probation, or post release community supervision, and mandatory supervision, or pre-trial supervision.
- (e) To violations of any penal provisions of law which are discovered while performing the usual or authorized duties of his/her employment.
- (f) To the rendering of mutual aid to any other law enforcement agency.

100.3 CONSTITUTIONAL REQUIREMENTS

All employees shall observe and comply with every person's clearly established rights under the United States and California Constitutions.

Chief Probation Officer

101.1 PURPOSE AND SCOPE

The California Commission on Standards and Training for Corrections (STC) has mandated that all sworn officers employed within the State of California shall receive certification by STC within prescribed time periods.

101.1.1 CHIEF PROBATION OFFICER REQUIREMENTS

Any Chief Probation Officer of this department, shall, as a condition of continued employment, complete the course of training prescribed by STC and complete the manager/administrator core course consisting of a minimum of 80 hours of instruction in general management/administration subjects. This course shall be completed during the first year of assignment as a manager or administrator, as defined in STC regulations.

Oath of Office

102.1 PURPOSE AND SCOPE

The purpose of this policy is to ensure that oaths, when appropriate, are administered to department employees.

102.2 POLICY

It is the policy of the Tuolumne County Probation Department that, when appropriate, department employees affirm the oath of their office as an expression of commitment to the constitutional rights of those served by the Department and the dedication of its members to their duties.

102.3 OATH OF OFFICE

All department employees, when appropriate, shall take and subscribe to the oaths or affirmations applicable to their positions. All sworn employees shall be required to affirm the oath of office expressing commitment and intent to respect constitutional rights in discharging the duties of a law enforcement officer (Cal. Const. Art. 20, § 3; Government Code § 3102). The oath shall be as follows:

"I, (employee name), do solemnly swear (or affirm) that I will support and defend the Constitution of the United States and the Constitution of the State of California against all enemies, foreign and domestic; that I will bear true faith and allegiance to the Constitution of the United States and the Constitution of the State of California; that I take this obligation freely, without any mental reservation or purpose of evasion; and that I will well and faithfully discharge the duties upon which I am about to enter."

102.4 MAINTENANCE OF RECORDS

The oath of office shall be filed as prescribed by law (Government Code § 3105).

Policy Manual

103.1 PURPOSE AND SCOPE

The manual of the Tuolumne County Probation Department is hereby established and shall be referred to as the Policy Manual. The Policy Manual is a statement of the current policies, procedures, rules, and guidelines of this department. All employees are to conform to the provisions of this manual.

All prior and existing manuals, orders, and regulations which are in conflict with this manual are revoked, except to the extent that portions of existing manuals, orders, and other regulations which have not been included herein shall remain in effect where they do not conflict with the provisions of this manual.

103.1.1 INITIAL POLICY MANUAL EFFECTIVE DATE

The policies contained in this policy manual shall initially become effective as of January 1, 2017, at 0001 hours.

Any policies published prior to the above date shall not become effective until the initial effective date listed above. However, each policy published prior to the above date shall be electronically acknowledged by each member prior to the initial effective date listed above.

The provisions of this subsection relate only to the initial publication of the policy manual, with an effective date of January 1, 2017.

103.2 POLICY

Except where otherwise expressly stated, the provisions of this manual shall be considered as guidelines. It is recognized, however, that probation work is not always predictable and circumstances may arise which warrant departure from these guidelines. It is the intent of this manual to be viewed from an objective standard, taking into consideration the sound discretion entrusted to members of this department under the circumstances reasonably available at the time of any incident.

103.2.1 DISCLAIMER

The provisions contained in this Policy Manual are not intended to create an employment contract, nor any employment rights or entitlements. The policies contained within this manual are for the internal use of the Tuolumne County Probation Department and shall not be construed to create a higher standard or duty of care for civil or criminal liability against the County, its officials or employees. Violations of any provision of any policy contained within this manual shall only form the basis for departmental administrative action, training or discipline. The Tuolumne County Probation Department reserves the right to revise any policy content, in whole or in part.

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103.3 RESPONSIBILITIES

The ultimate responsibility for the contents of the manual rests with the Chief Probation Officer. Since it is not practical for the Chief Probation Officer to prepare and maintain the manual, the following delegations have been made:

103.3.1 CHIEF PROBATION OFFICER

The Chief Probation Officer shall be considered the ultimate authority for the provisions of this manual and shall continue to issue Departmental Directives which shall modify those provisions of the manual to which they pertain. Departmental Directives shall remain in effect until such time as they may be permanently incorporated into the manual.

103.3.2 ADMINISTRATIVE STAFF

Administrative Staff shall consist of the following:

- Chief Probation Officer
- The Division Manager from each division
- Juvenile Hall Superintendent

The Administrative staff shall review all recommendations regarding proposed changes to the manual at staff meetings.

103.3.3 OTHER PERSONNEL

All Department employees suggesting revision of the contents of the Policy Manual shall forward their suggestion, in writing, to their Manager who will consider the recommendation and forward to staff.

103.4 FORMATTING CONVENTIONS FOR THE POLICY MANUAL

The purpose of this section is to provide examples of abbreviations and definitions used in this manual.

103.4.1 ACCEPTABLE ABBREVIATIONS

The following abbreviations are acceptable substitutions in the manual:

- Departmental Directives may be abbreviated as “DD#?”
- Policy Manual sections may be abbreviated as “Section 106.X#?” or “§ 106.X#?”

103.4.2 DEFINITIONS

The following words and terms shall have these assigned meanings, unless it is apparent from the content that they have a different meaning:

Adult - Any person 18 years of age or older.

CHP - The California Highway Patrol.

CFR - Code of Federal Regulations.

Civilian - Employees and volunteers who are not sworn peace officers.

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County - The County of Tuolumne.

Department /TCPD - The Tuolumne County Probation Department.

DMV - The Department of Motor Vehicles.

Employee/Personnel - Any person employed by the Department.

Juvenile - Any person under the age of 18 years.

Manual - The Tuolumne County Probation Department Policy Manual.

May - Indicates a permissive, discretionary or conditional action.

Member - Any person who is employed or appointed by the Tuolumne County Probation Department including sworn officers, relief employees, civilian employees and volunteers.

Officer/Sworn - Those employees, regardless of rank, who are sworn employees of the Tuolumne County Probation Department.

On-Duty - Employee status during the period when he/she is actually engaged in the performance of his/her assigned duties.

Order - A written or verbal instruction issued by a superior.

POST - The California Commission on Peace Officer Standards and Training.

Rank - The job classification title held by an officer.

Shall or will - Indicates a mandatory action.

Should - Indicates a generally required or expected action, absent a rational basis for failing to conform.

Staff – All employees and volunteers of the department to include sworn and non-sworn

STC - California Commission on Standards and Training for Corrections

USC - United States Code

103.4.3 DISTRIBUTION OF MANUAL

Copies of the Policy Manual shall be distributed to the following:

- Chief Probation Officer
- Division Managers
- Supervising Probation Officers
- Senior Probation Officers
- Deputy Probation Officers
- Probation Business Manager
- Senior Legal Assistant

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- Legal Assistants
- Office Assistants
- Probation Aides
- Work Release Coordinators
- Staff Services Analyst
- Juvenile Family Services Therapists

A computerized version of the Policy Manual will be made available on the Department network for access by all employees. The computerized version will be limited to viewing and printing of specific sections. No changes shall be made to the electronic version without authorization.

103.5 MANUAL ACCEPTANCE

As a condition of employment, all employees are required to read and obtain necessary clarification of this department's policies. All employees are required to sign a statement of receipt acknowledging that they have received a copy, or have been provided access to the Policy Manual and understand they are responsible to read and become familiar with its contents.

103.5.1 REVISIONS TO POLICIES

All employees are responsible for keeping abreast of all Policy Manual revisions. All changes to the Policy Manual will be posted under the title Recent Policy Manual Revisions. All revisions to the Policy Manual will be forwarded as needed to all personnel via electronic mail. Each employee shall acknowledge receipt by return email, review the revisions and seek clarification as needed.

Each Manager will ensure that employees under his/her command are aware of any Policy Manual revisions.

Chapter 2 - Organization and Administration

Organizational Structure and Responsibility

200.1 PURPOSE AND SCOPE

The organizational structure of this department is designed to create an efficient means to accomplish our mission and goals and to provide for the best possible service to the public.

200.2 DIVISIONS

The Chief Probation Officer is responsible for administering and managing the Tuolumne County Probation Department. There are three divisions in the Probation Department as follows:

- Juvenile Division
- Adult Division
- Juvenile Hall
- Probation Business Division

200.2.1 JUVENILE DIVISION

The Juvenile Division is commanded by a Division Manager whose primary responsibility is to provide general management direction and control for the Juvenile Division. The Juvenile Division consists of Supervising Probation Officers, Senior Probation Officers, Deputy Probation Officers, Probation Aides, Juvenile Family Services Therapist, and Support Services.

200.2.2 ADULT DIVISION

The Adult Division is commanded by a Division Manager whose primary responsibility is to provide general management direction and control for that Division. The Adult Division consists of an Investigations Unit, Supervision Unit and Adult Alternatives for Detention, which includes, Supervising Probation Officers, Senior Probation Officers, Deputy Probation Officers, and Support Staff.

200.2.3 JUVENILE HALL

The Juvenile Hall is managed by a Superintendent whose primary responsibility is the operation and management of all functions of the juvenile facility.

200.2.4 PROBATION BUSINESS DIVISION

The Probation Business Division is managed by a Probation Business Manager whose primary responsibility is to provide daily operational support and fiscal management for the Department. The Probation Business Division consists of the Senior Legal Assistant, Legal Assistants, Staff Services Analyst, and Office Assistant. The Business Manager is not a Peace Officer and therefore is part of the command structure for non-sworn staff, but not for sworn staff.

200.3 COMMAND PROTOCOL

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Organizational Structure and Responsibility

200.3.1 SUCCESSION OF COMMAND

The Chief Probation Officer exercises command over all personnel in the Department. During planned absences the Chief Probation Officer will designate an Adult or Juvenile Division Manager to serve as the acting Chief Probation Officer.

Except when designated as above, the order of command authority in the absence or unavailability of the Chief Probation Officer is as follows:

- (a) Adult or Juvenile Division Manager, Juvenile Hall Superintendent
- (b) Supervising Probation Officer

200.3.2 UNITY OF COMMAND

The principles of unity of command ensure efficient supervision and control within the Department. Generally, each employee shall be accountable to one supervisor at any time for a given assignment or responsibility. Except where specifically delegated authority may exist by policy or special assignment, any supervisor may temporarily direct any subordinate if an operational necessity exists.

200.3.3 ORDERS

Members shall respond to and make a good faith and reasonable effort to comply with the lawful order of superior officers and other proper authority.

Departmental Directive

201.1 PURPOSE AND SCOPE

Departmental Directives establish an interdepartmental communication that may be used by the Chief Probation Officer to make immediate changes to policy and procedure consistent with the current Memorandum of Understanding and as permitted by Government Code § 3500 et seq. Departmental Directives will immediately modify or change and supersede sections of this manual to which they pertain.

201.1.1 DEPARTMENTAL DIRECTIVE PROTOCOL

Departmental Directives will be incorporated into the manual as required upon approval of staff. Departmental Directives will modify existing policies or create a new policy as appropriate and will be rescinded upon incorporation into the manual.

All existing Departmental Directives have now been incorporated in the updated Policy Manual as of the below revision date.

Any Departmental Directives issued after publication of the manual shall be numbered consecutively starting with the last two digits of the year, followed by the number 01. For example, 12-01 signifies the first Departmental Directive for the year 2012.

201.2 RESPONSIBILITIES

201.2.1 STAFF

All staff shall review and acknowledge that they have read and understand the Policy Manual, which will incorporate changes originally made by a Departmental Directive.

201.2.2 CHIEF PROBATION OFFICER

The Chief Probation Officer shall issue all Departmental Directives.

201.3 ACCEPTANCE OF DEPARTMENTAL DIRECTIVES

All employees are required to read and obtain any necessary clarification of all Departmental Directives. All employees are required to acknowledge in writing the receipt and review of any new Departmental Directive. Signed acknowledgement forms and/or e-mail receipts showing an employee's acknowledgement will be maintained by the Training Manager.

Emergency Management Plan

202.1 PURPOSE AND SCOPE

The County has prepared an Emergency Management Plan for use by all employees in the event of a major disaster or other emergency event. The plan provides for a strategic response by all employees and assigns specific responsibilities in the event that the plan is activated (Government Code § 8610).

202.2 ACTIVATING THE EMERGENCY PLAN

The Emergency Management Plan can be activated on the order of the official designated by local ordinance.

202.2.1 RECALL OF PERSONNEL

In the event that the Emergency Management Plan is activated, all employees of the Tuolumne County Probation Department are subject to immediate recall. Employees may also be subject to recall during extraordinary circumstances as deemed necessary by the Chief Probation Officer or the authorized designee.

Failure to promptly respond to an order to report for duty may result in discipline.

202.3 LOCATION OF THE PLAN

The Emergency Management Plan is available on the bookshelf located on the main floor on the northwest wall. All supervisors should familiarize themselves with the Emergency Management Plan. The assigned safety representative of the Department should ensure that department staff are familiar with the roles staff will play when the plan is implemented.

202.4 UPDATING OF MANUALS

The Chief Probation Officer or designee shall review the Emergency Management Plan Manual at least once every two years to ensure that the manual conforms to any revisions made by the National Incident Management System (NIMS) and the Standardized Emergency Management System (SEMS) and should appropriately address any needed revisions.

Training Policy

203.1 PURPOSE AND SCOPE

It is the policy of this department to administer a training program that will provide for the professional growth and continued development of its personnel. By doing so, the Department will ensure its personnel possess the knowledge and skills necessary to provide a professional level of service that meets the needs of the community.

203.2 PHILOSOPHY

The Department seeks to provide ongoing training and encourages all personnel to participate in advanced training and formal education on a continual basis. Training is provided within the confines of funding, requirements of a given assignment, staffing levels, and legal mandates. Whenever possible, the Department will use courses certified by the California Board of State and Community Corrections (BSCC).

203.3 OBJECTIVES

The objectives of the Training Program are to:

- (a) Enhance the level of public safety service to the community
- (b) Increase the technical expertise and overall effectiveness of our personnel
- (c) Provide for continued professional development of department personnel

203.4 TRAINING PLAN

A training plan will be developed and maintained by the Training Manager. It is the responsibility of the Training Manager to maintain, review, and update the training plan on an annual basis. The plan will address the following areas:

- Legislative Changes
- State Mandated Training
- Critical Issues Training
- Perishable Skills

203.5 TRAINING NEEDS ASSESSMENT

The Training Manager will conduct an annual training-needs assessment of the Department. The needs assessment will be reviewed with the staff. Upon approval by the Division Manager, the needs assessment will form the basis for the training plan for the fiscal year.

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Training Policy

203.6 TRAINING PROCEDURES

- (a) All employees assigned to attend training shall attend as scheduled unless previously excused by their immediate supervisor. Excused absences from mandatory training should be limited to the following:
 - 1. Court appearances
 - 2. First choice vacation
 - 3. Sick leave
 - 4. Physical limitations preventing the employee's participation.
 - 5. Emergency situations
- (b) When an employee is unable to attend mandatory training, that employee shall:
 - 1. Notify his/her supervisor as soon as possible but no later than one hour prior to the start of training.
 - 2. Document his/her absence in an e-mail to his/her supervisor or verbally if an e-mail is not possible.
 - 3. Make arrangements through his/her supervisor and the Training Manager to attend the required training on an alternate date.

203.7 DAILY TRAINING BULLETINS

The Lexipol Daily Training Bulletins (DTBs) is a web-accessed system that provides training on the Tuolumne County Probation Department Policy Manual and other important topics. Generally, one training bulletin is available for each day of the month. However, the number of DTBs may be adjusted.

Personnel assigned to participate in DTBs should only use the password and login name assigned to them by the Training Manager. Personnel should not share their password with others and should frequently change their password to protect the security of the system. After each session, employees should log off the system to prevent unauthorized access. The content of the DTBs is copyrighted material and shall not be shared with others outside of the Department.

Employees who are assigned to participate in the DTB program should complete each DTB prior to the end of the work day or as otherwise directed by their supervisor. Employees should not allow uncompleted DTBs to build up over time. Personnel may be required to complete DTBs missed during extended absences (e.g., vacation, medical leave) upon returning to duty. Although the DTB system can be accessed from any Internet active computer, employees shall only take DTBs as part of their on-duty assignment unless directed otherwise by a supervisor.

Supervisors and Managers will be responsible for monitoring the progress of personnel under their command to ensure compliance with this policy.

Administrative Communications

204.1 PURPOSE AND SCOPE

Administrative communications of this department are governed by the following policies.

204.2 DEPARTMENT E-MAIL

Department email may be issued periodically by the Chief Probation Officer to announce and document all promotions, transfers, hiring of new staff, separations, staff and group commendations, or other changes in status.

204.3 CORRESPONDENCE

In order to ensure that the letterhead and name of the Department are not misused, all external correspondence shall be on Department letterhead. Staff should use Department letterhead only for official business or with approval of the Division Manager or Chief Probation Officer.

204.4 SURVEYS

All surveys made in the name of the Department shall be authorized by the Chief Probation Officer or the Division Manager.

Staffing Levels

205.1 PURPOSE AND SCOPE

The purpose of this policy is to ensure that proper supervision is available for all shifts. The Department intends to balance the employee's needs against the need to have flexibility and discretion in using personnel to meet operational needs. While balance is desirable, the paramount concern is the need to meet operational requirements of the Department.

205.2 MINIMUM STAFFING LEVELS

Minimum staffing levels should result in the scheduling of at least a Division Manager/Supervising Probation Officer on duty per division during core business hours. Division Managers will ensure that at least one deputy probation officer is identified as officer of the day.

It is the responsibility of the assigned officer of the day to ensure coverage in the event of any pre-approved time off. When an employee calls in sick, the supervisor will arrange for coverage.

Department Records

206.1 PURPOSE AND SCOPE

To define the accessibility and timeline for destruction of department records. Employees are referred to the County of Tuolumne Records Retention Schedule specifically Exhibit V.

206.2 DESTRUCTION OF ADULT RECORDS

Penal Code § 1203.10, in conjunction with county ordinance, authorizes the probation officer to destroy any records and papers five years after the termination of probation.

206.3 DESTRUCTION OF JUVENILE RECORDS

Probation offices are authorized to destroy all records and papers of a minors case file after five years from the date of termination or as otherwise specified in the code (W&I § 826)

Pursuant to Welfare and Institutions Code § 781 those cases that are not permitted to be sealed shall not be destroyed.

206.4 RETENTION SCHEDULE

See attachment: [Retention Schedule.png](#)

Retiree Concealed Firearms

207.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidelines for the issuance, denial, suspension or revocation of the Probation Department identification cards under the Law Enforcement Officers' Safety Act (LEOSA) and California law (18 USC § 926C; Penal Code § 25455).

207.2 POLICY

It is the policy of the Tuolumne County Probation Department to provide identification cards to qualified former or retired officers as provided in this policy.

207.3 LEOSA

The Chief Probation Officer may issue an identification card for LEOSA purposes to any qualified former officer of this department who (18 USC § 926C(c)):

- (a) Separated from service in good standing from this department and was armed as a peace officer during the scope of his or her service.
- (b) Before such separation, had regular employment as a law enforcement officer for an aggregate of 10 years or more or, if employed as a law enforcement officer for less than 10 years, separated from service after completing any applicable probationary period due to a service-connected disability as determined by this department.
- (c) Has not been disqualified for reasons related to mental health.
- (d) Has not entered into an agreement with this department where the officer acknowledges that he/she is not qualified to receive a firearm qualification certificate for reasons related to mental health.
- (e) Is not prohibited by federal law from receiving or possessing a firearm.

207.3.1 LEOSA IDENTIFICATION CARD FORMAT

The LEOSA identification card should contain a photograph of the former officer and identify him/her as having been employed as an officer.

If the Chief Probation Officer qualifies the former officer, the LEOSA identification card or separate certification should indicate the date the former officer was tested or otherwise found by the Department to meet the active duty standards for qualification to carry a firearm.

207.3.2 AUTHORIZATION

Any qualified former law enforcement officer, including a former officer of this department, may carry a concealed firearm under 18 USC § 926C when he/she is:

- (a) In possession of photographic identification that identifies him/her as having been employed as a law enforcement officer, and one of the following:
 - 1. Documentation from the department that he/she has, within the past year, been tested or otherwise found by the law enforcement agency to meet agency-

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established active duty standards for qualification in firearms training to carry a firearm of the same type as the concealed firearm.

2. A certification, issued by either the state in which the person resides or by a certified firearms instructor who is qualified to conduct a firearms qualification test for active duty law enforcement officers within that state, indicating that the person has, within the past year, been tested or otherwise found to meet the standards established by the state or, if not applicable, the standards of any agency in that state.
- (b) Not under the influence of alcohol or another intoxicating or hallucinatory drug or substance.
- (c) Not prohibited by federal law from receiving a firearm.
- (d) Not in a location prohibited by California law or by a private person or entity on his/her property if such prohibition is permitted by California law.

207.4 RETIREE IDENTIFICATION CARD ISSUANCE

At the request, any peace officer of this department who was authorized to, and did, carry a firearm during the course and scope of his/her employment shall be issued an identification card with a Carrying Concealed Weapon endorsement, "CCW Approved," upon honorable retirement (Penal Code § 25455).

- (a) For the purpose of this policy, honorably retired includes all peace officers who have qualified for, and accepted, a service or disability retirement. It shall not include any officer who retires in lieu of termination.
- (b) No CCW Approved endorsement shall be issued to any officer retiring because of a psychological disability (Penal Code § 26305).

207.4.1 RETIREE IDENTIFICATION CARD FORMAT

The identification card issued to any qualified and honorably retired officer shall be 2 inches by 3 inches, and minimally contain (Penal Code § 25460):

- (a) A photograph of the retiree.
- (b) The retiree's name and date of birth.
- (c) The date of retirement.
- (d) The name and address of this department.
- (e) A stamped CCW Approved endorsement along with the date by which the endorsement must be renewed (not more than one year). If a CCW endorsement has been denied or revoked, the identification card shall be stamped "No CCW Privilege."
- (f) Date of expiration, or date of renewal.

207.5 FORMER OFFICER RESPONSIBILITIES

A former officer with a card issued under this policy shall immediately notify the Chief Probation Officer of his/her arrest or conviction in any jurisdiction, or that he/she is the subject of a court order, in accordance with the Reporting of Employee Convictions policy.

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207.5.1 RESPONSIBILITIES UNDER LEOSA

In order to obtain or retain a LEOSA identification card, the former officer shall:

- (a) Sign a waiver of liability of the County for all acts taken related to carrying a concealed firearm, acknowledging both his/her personal responsibility as a private person for all acts taken when carrying a concealed firearm as permitted by LEOSA and also that these acts were not taken as an employee or former employee of the Department.
- (b) Remain subject to all applicable department policies and federal, state and local laws.
- (c) Demonstrate good judgment and character commensurate with carrying a loaded and concealed firearm.
- (d) Successfully pass an annual criminal history background check indicating that he/she is not prohibited by law from receiving or possessing a firearm.
- (e) Notify the department within ten (10) days of any change of address or any physical circumstances which may compromise your ability to carry concealed.

207.5.2 MAINTAINING A CALIFORNIA IDENTIFICATION CARD CCW ENDORSEMENT

In order to maintain a CCW Approved endorsement on an identification card issued under California law, the retired officer shall (Penal Code § 26305):

- (a) Qualify annually with the authorized firearm at a course approved by this department at the retired officer's expense.
- (b) Remain subject to all applicable department policies and federal, state and local laws.
- (c) Not engage in conduct that compromises public safety.
- (d) Only be authorized to carry a concealed firearm inspected and approved by the Department.

207.6 DENIAL, SUSPENSION OR REVOCATION OF A LEOSA IDENTIFICATION CARD

A LEOSA identification card may be denied or revoked upon a showing of good cause as determined by the Department. In the event that an identification card is denied, suspended or revoked, the former officer may request a review by the Chief Probation Officer. The decision of the Chief Probation Officer is final.

207.7 DENIAL, SUSPENSION OR REVOCATION OF A CALIFORNIA CCW ENDORSEMENT CARD

A CCW endorsement under Penal Code § 25470 for any officer retired from this department may be denied or revoked only upon a showing of good cause. The CCW endorsement may be immediately and temporarily revoked by the Chief Probation Officer when the conduct of a retired peace officer compromises public safety.

- (a) In the event that a CCW endorsement is initially denied, the retired officer shall have 15 days from the date of denial to request a formal hearing. The failure to submit a timely written request for a hearing shall be deemed a waiver of such right. The hearing, absent written agreement between the parties, shall be held no later than 120 days after the request is received.

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- (b) Prior to revocation of any CCW endorsement, the Department shall provide the affected retiree with written notice of a hearing by either personal service or first class mail, postage prepaid, return receipt requested to the retiree's last known address (Penal Code § 26315).
 - 1. The retiree shall have 15 days from the date of service to file a written request for a hearing.
 - 2. The hearing, absent written agreement between the parties, shall be held no later than 120 days after the request is received (Penal Code § 26315).
 - 3. The failure to submit a timely written request for a hearing shall be deemed a waiver of such right.
- (c) A hearing for the denial or revocation of any CCW endorsement shall be conducted before a hearing board composed of three members, one selected by the Department, one selected by the retiree or his/her employee organization and one selected jointly (Penal Code § 26320).
 - 1. The decision of such hearing board shall be binding on the Department and the retiree.
 - 2. Any retiree who waives the right to a hearing or whose CCW endorsement has been revoked at a hearing shall immediately surrender his/her identification card. The Department will then reissue a new identification card which shall be stamped "No CCW Privilege."
- (d) Members who have reason to suspect the conduct of a retiree has compromised public safety shall notify the Chief Probation Officer as soon as practicable. The Chief Probation Officer should promptly take appropriate steps to look into the matter and, if warranted, contact the retiree in person and advise him/her of the temporary suspension and hearing information listed below.
 - 1. Notification of the temporary suspension should also be promptly mailed to the retiree via first class mail, postage prepaid, return receipt requested (Penal Code § 26312).
 - 2. The Chief Probation Officer or his/her designee should document the investigation, the actions taken and, if applicable, any notification made to the retiree. The memo should be forwarded to the Chief Probation Officer.
 - 3. The personal and written notification should be as follows:
 - (a) The retiree's CCW endorsement is immediately and temporarily suspended.
 - (b) The retiree has 15 days to request a hearing to determine whether the temporary suspension should become permanent revocation.
 - (c) The retiree will forfeit his/her right to a hearing and the CCW endorsement will be permanently revoked if the retiree fails to respond to the notice of hearing within the 15-day period.
 - 4. In the event that personal contact with the retiree cannot be reasonably achieved in a timely manner, the Chief Probation Officer or his/her designee should

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attempt to make the above notice of temporary suspension through another law enforcement officer. For example, if a retiree was arrested or detained by a distant agency, the Chief Probation Officer or his/her designee may request that a law enforcement officer from that agency act as the agent of the Department to deliver the written notification.

Chapter 3 - General Operations

Use of Force

300.1 PURPOSE AND SCOPE

This policy provides guidelines on the reasonable use of force. While there is no way to specify the exact amount or type of reasonable force to be applied in any situation, every member of this department is expected to use these guidelines to make such decisions in a professional, impartial and reasonable manner.

300.1.1 DEFINITIONS

Definitions related to this policy include:

Deadly force - Force reasonably anticipated and intended to create a substantial likelihood of causing death or very serious injury.

Force - The application of physical techniques or tactics, chemical agents or weapons to another person. It is not a use of force when a person allows him/herself to be searched, escorted, handcuffed or restrained.

300.2 POLICY

The use of force by law enforcement personnel is a matter of critical concern, both to the public and to the law enforcement community. Officers are involved on a daily basis in numerous and varied interactions and, when warranted, may use reasonable force in carrying out their duties.

Officers must have an understanding of, and true appreciation for, their authority and limitations. This is especially true with respect to overcoming resistance while engaged in the performance of law enforcement duties.

The Department recognizes and respects the value of all human life and dignity without prejudice to anyone. Vesting officers with the authority to use reasonable force and to protect the public welfare requires monitoring, evaluation and a careful balancing of all interests.

300.2.1 DUTY TO INTERCEDE

Any officer present and observing another officer using force that is clearly beyond that which is objectively reasonable under the circumstances shall, when in a position to do so, intercede to prevent the use of unreasonable force. An officer who observes another employee use force that exceeds the degree of force permitted by law should promptly report these observations to a supervisor.

300.3 USE OF FORCE

Officers shall use only that amount of force that reasonably appears necessary given the facts and circumstances perceived by the officer at the time of the event to accomplish a legitimate law enforcement purpose.

The reasonableness of force will be judged from the perspective of a reasonable officer on the scene at the time of the incident. Any evaluation of reasonableness must allow for the fact that officers are often forced to make split-second decisions about the amount of force that reasonably

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appears necessary in a particular situation, with limited information and in circumstances that are tense, uncertain and rapidly evolving.

Given that no policy can realistically predict every possible situation an officer might encounter, officers are entrusted to use well-reasoned discretion in determining the appropriate use of force in each incident.

It is also recognized that circumstances may arise in which officers reasonably believe that it would be impractical or ineffective to use any of the tools, weapons or methods provided by the Department. Officers may find it more effective or reasonable to improvise their response to rapidly unfolding conditions that they are confronting. In such circumstances, the use of any improvised device or method must nonetheless be reasonable and utilized only to the degree that reasonably appears necessary to accomplish a legitimate law enforcement purpose.

While the ultimate objective of every law enforcement encounter is to avoid or minimize injury, nothing in this policy requires an officer to retreat or be exposed to possible physical injury before applying reasonable force.

300.3.1 USE OF FORCE TO EFFECT AN ARREST

Any peace officer may use reasonable force to effect an arrest, to prevent escape or to overcome resistance. A peace officer who makes or attempts to make an arrest need not retreat or desist from his/her efforts by reason of resistance or threatened resistance on the part of the person being arrested; nor shall an officer be deemed the aggressor or lose his/her right to self-defense by the use of reasonable force to effect the arrest, prevent escape or to overcome resistance (Penal Code § 835a).

300.3.2 FACTORS USED TO DETERMINE THE REASONABLENESS OF FORCE

When determining whether to apply force and evaluating whether an officer has used reasonable force, a number of factors should be taken into consideration, as time and circumstances permit. These factors include, but are not limited to:

- (a) Immediacy and severity of the threat to officers or others.
- (b) The conduct of the individual being confronted, as reasonably perceived by the officer at the time.
- (c) Officer/subject factors (age, size, relative strength, skill level, injuries sustained, level of exhaustion or fatigue, the number of officers available vs. subjects).
- (d) The effects of drugs or alcohol.
- (e) Subject's mental state or capacity.
- (f) Proximity of weapons or dangerous improvised devices.
- (g) The degree to which the subject has been effectively restrained and his/her ability to resist despite being restrained.
- (h) The availability of other options and their possible effectiveness.

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- (i) Seriousness of the suspected offense or reason for contact with the individual.
- (j) Training and experience of the officer.
- (k) Potential for injury to officers, suspects and others.
- (l) Whether the person appears to be resisting, attempting to evade arrest by flight or is attacking the officer.
- (m) The risk and reasonably foreseeable consequences of escape.
- (n) The apparent need for immediate control of the subject or a prompt resolution of the situation.
- (o) Whether the conduct of the individual being confronted no longer reasonably appears to pose an imminent threat to the officer or others.
- (p) Prior contacts with the subject or awareness of any propensity for violence.
- (q) Any other exigent circumstances.

300.3.3 PAIN COMPLIANCE TECHNIQUES

Pain compliance techniques may be effective in controlling a physically or actively resisting individual. Officers may only apply those pain compliance techniques for which they have successfully completed department-approved training. Officers utilizing any pain compliance technique should consider:

- (a) The degree to which the application of the technique may be controlled given the level of resistance.
- (b) Whether the person can comply with the direction or orders of the officer.
- (c) Whether the person has been given sufficient opportunity to comply.

The application of any pain compliance technique shall be discontinued once the officer determines that compliance has been achieved.

300.3.4 CAROTID CONTROL HOLD

The proper application of the carotid control hold may be effective in restraining a violent or combative individual. However, due to the potential for injury, the use of the carotid control hold is subject to the following:

- (a) The officer shall have successfully completed department-approved training in the use and application of the carotid control hold.
- (b) The carotid control hold may only be used when circumstances perceived by the officer at the time indicate that such application reasonably appears necessary to control a person in any of the following circumstances:
 - 1. The subject is violent or physically resisting.

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2. The subject, by words or actions, has demonstrated an intention to be violent and reasonably appears to have the potential to harm officers, him/herself or others.
- (c) The application of a carotid control hold on the following individuals should generally be avoided unless the totality of the circumstances indicates that other available options reasonably appear ineffective, or would present a greater danger to the officer, the subject or others, and the officer reasonably believes that the need to control the individual outweighs the risk of applying a carotid control hold:
 1. Females who are known to be pregnant
 2. Elderly individuals
 3. Obvious juveniles
 4. Individuals who appear to have Down syndrome or who appear to have obvious neck deformities or malformations, or visible neck injuries
- (d) Any individual who has had the carotid control hold applied, regardless of whether he/she was rendered unconscious, shall be promptly examined by paramedics or other qualified medical personnel and should be monitored until examined by paramedics or other appropriate medical personnel.
- (e) The officer shall inform any person receiving custody, or any person placed in a position of providing care, that the individual has been subjected to the carotid control hold and whether the subject lost consciousness as a result.
- (f) Any officer attempting or applying the carotid control hold shall promptly notify a supervisor of the use or attempted use of such hold.
- (g) The use or attempted use of the carotid control hold shall be thoroughly documented by the officer in any related reports.

300.4 DEADLY FORCE APPLICATIONS

Use of deadly force is justified in the following circumstances:

- (a) An officer may use deadly force to protect him/herself or others from what he/she reasonably believes would be an imminent threat of death or serious bodily injury.
- (b) An officer may use deadly force to stop a fleeing subject when the officer has probable cause to believe that the person has committed, or intends to commit, a felony involving the infliction or threatened infliction of serious bodily injury or death, and the officer reasonably believes that there is an imminent risk of serious bodily injury or death to any other person if the subject is not immediately apprehended. Under such circumstances, a verbal warning should precede the use of deadly force, where feasible.

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Imminent does not mean immediate or instantaneous. An imminent danger may exist even if the suspect is not at that very moment pointing a weapon at someone. For example, an imminent danger may exist if an officer reasonably believes any of the following:

1. The person has a weapon or is attempting to access one and it is reasonable to believe the person intends to use it against the officer or another.
2. The person is capable of causing serious bodily injury or death without a weapon and it is reasonable to believe the person intends to do so.

300.4.1 SHOOTING AT OR FROM MOVING VEHICLES

Shots fired at or from a moving vehicle are rarely effective. Officers should move out of the path of an approaching vehicle instead of discharging their firearm at the vehicle or any of its occupants. An officer should only discharge a firearm at a moving vehicle or its occupants when the officer reasonably believes there are no other reasonable means available to avert the threat of the vehicle, or if deadly force other than the vehicle is directed at the officer or others.

Officers should not shoot at any part of a vehicle in an attempt to disable the vehicle.

300.5 REPORTING THE USE OF FORCE

Any use of force by a member of this department shall be documented promptly, completely and accurately in an appropriate report, depending on the nature of the incident. The officer should articulate the factors perceived and why he/she believed the use of force was reasonable under the circumstances. To collect data for purposes of training, resource allocation, analysis and related purposes, the Department may require the completion of additional report forms, as specified in department policy, procedure or law.

Additionally, employees must complete the required Use of Force Incident Report for data collection for the Department of Justice in all instances when a peace officer is involved in the following situations:

- (a) An incident that involves the shooting of a civilian by a peace officer.
- (b) An incident that involves the shooting of a peace officer by a civilian.
- (c) An incident in which the use of force by a peace officer against a civilian results in serious bodily injury or death.
- (d) An incident in which use of force by a civilian against a peace officer results in serious bodily injury or death.

300.5.1 NOTIFICATION TO SUPERVISORS

Supervisory notification shall be made as soon as practicable following the application of force in any of the following circumstances:

- (a) The application caused a visible injury.

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- (b) The application would lead a reasonable officer to conclude that the individual may have experienced more than momentary discomfort.
- (c) The individual subjected to the force complained of injury or continuing pain.
- (d) Any application of an EMDT device, such as a TASER.
- (e) Any application of a restraint device other than handcuffs, shackles or belly chains.
- (f) The individual subjected to the force was rendered unconscious.
- (g) An individual was struck or kicked.

300.5.2 REPORTING TO CALIFORNIA DEPARTMENT OF JUSTICE

Statistical data regarding all officer-involved shootings and incidents involving use of force resulting in serious bodily injury is to be reported to the California Department of Justice as required by Government Code § 12525.2.

All employees involved in the Use of Force shall use the The Use of Force Incident Report. That report can be located in the Department's Case Management System. Once the form is completed, a copy of the report shall be given to the Senior Legal Assistant for reporting to the California Department of Justice.

300.6 MEDICAL CONSIDERATION

Prior to booking or release, medical assistance shall be obtained for any person who exhibits signs of physical distress, who has sustained visible injury, expresses a complaint of injury or continuing pain, or who was rendered unconscious. Any individual exhibiting signs of physical distress after an encounter should be continuously monitored until he/she can be medically assessed.

Based upon the officer's initial assessment of the nature and extent of the subject's injuries, medical assistance may consist of examination by fire personnel, paramedics, hospital staff or medical staff at the jail. If any such individual refuses medical attention, such a refusal shall be fully documented in related reports and, whenever practicable, should be witnessed by another officer and/or medical personnel.

The on-scene supervisor, or if not available, the primary handling officer shall ensure that any person providing medical care or receiving custody of a person following any use of force is informed that the person was subjected to force. This notification shall include a description of the force used and any other circumstances the officer reasonably believes would be potential safety or medical risks to the subject (e.g., prolonged struggle, extreme agitation, impaired respiration).

Persons who exhibit extreme agitation, violent irrational behavior accompanied by profuse sweating, extraordinary strength beyond their physical characteristics and imperviousness to pain (sometimes called "excited delirium"), or who require a protracted physical encounter with multiple officers to be brought under control, may be at an increased risk of sudden death. Calls involving these persons should be considered medical emergencies. Officers who reasonably suspect a medical emergency should request medical assistance as soon as practicable and have medical personnel stage away if appropriate.

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300.7 MANAGER RESPONSIBILITY

When a Division Manager is notified of an incident in which there has been a reported application of force, the Division Manager is expected to:

- (a) Obtain the basic facts from the involved officers. Absent an allegation of misconduct or excessive force, this will be considered a routine contact in the normal course of duties.
- (b) Ensure that any injured parties are examined and treated.
- (c) Once any initial medical assessment has been completed or first aid has been rendered, ensure that photographs have been taken of any areas involving visible injury or complaint of pain, as well as overall photographs of uninjured areas. These photographs should be retained until all potential for civil litigation has expired.
- (d) Identify any witnesses not already included in related reports.
- (e) Review and approve all related reports.
- (f) Determine if there is any indication that the subject may pursue civil litigation. The Division Manager should complete and route a notification of a potential claim through the appropriate channels to include the Chief Probation Officer, County Counsel and Human Resources Risk Management.
- (g) Evaluate the circumstances surrounding the incident and initiate an administrative investigation if there is a question of policy non-compliance or if for any reason further investigation may be appropriate.

300.7.1 DIVISION MANAGER RESPONSIBILITY

The Division Manager shall review each use of force by any personnel within his/her command to ensure compliance with this policy and to address any training issues.

Handcuffing and Restraints

301.1 PURPOSE AND SCOPE

This policy provides guidelines for the use of handcuffs and other restraints during detentions, arrests and custodial transports.

301.2 POLICY

The Tuolumne County Probation Department authorizes the use of restraint devices in accordance with this policy, the Use of Force Policy and department training. Restraint devices shall not be used to punish, to display authority or as a show of force.

301.3 USE OF RESTRAINTS

Only members who have successfully completed Tuolumne County Probation Department-approved training on the use of restraint devices described in this policy are authorized to use these devices.

When deciding whether to use any restraint, officers should carefully balance officer safety concerns with factors that include, but are not limited to:

- The circumstances or crime leading to the arrest.
- The demeanor and behavior of the arrested person.
- The age and health of the person.
- Whether the person is known to be pregnant.
- Whether the person has a hearing or speaking disability. In such cases, consideration should be given, safety permitting, to handcuffing to the front in order to allow the person to sign or write notes.
- Whether the person has any other apparent disability.

301.3.1 RESTRAINT OF DETAINEES

Situations may arise where it may be reasonable to restrain an individual who may, after brief investigation, be released without arrest. Unless arrested, the use of restraints on detainees should continue only for as long as is reasonably necessary to assure the safety of officers and others. When deciding whether to remove restraints from a detainee, officers should continuously weigh the safety interests at hand against the continuing intrusion upon the detainee.

301.3.2 RESTRAINT OF PREGNANT PERSONS

Persons who are known to be pregnant should be restrained in the least restrictive manner that is effective for officer safety and in no event shall these persons be restrained by the use of leg irons, waist chains or handcuffs behind the body.

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No person who is in labor, delivery or recovery after delivery shall be handcuffed or restrained except in extraordinary circumstances and only when a supervisor makes an individualized determination that such restraints are necessary for the safety of the arrestee, officers or others (Penal Code § 3407; Penal Code § 6030).

301.3.3 RESTRAINT OF JUVENILES

A juvenile under 14 years of age should not be restrained unless he/she is suspected of a dangerous felony or when the officer has a reasonable suspicion that the juvenile may resist, attempt escape, injure him/herself, injure the officer or damage property.

301.3.4 NOTIFICATIONS

Whenever an officer transports a person with the use of restraints other than handcuffs, the officer shall inform the detention staff upon arrival at the detention facility that restraints were used. This notification should include information regarding any other circumstances the officer reasonably believes would be potential safety concerns or medical risks to the subject (e.g., prolonged struggle, extreme agitation, impaired respiration) that may have occurred prior to, or during transportation to the detention facility.

301.4 APPLICATION OF HANDCUFFS OR PLASTIC CUFFS

Handcuffs, including temporary nylon or plastic cuffs, may be used only to restrain a person's hands to ensure officer safety.

Handcuffing is mandatory for most arrest situations with limited exceptions. Officers should consider handcuffing any person they reasonably believe warrants that degree of restraint. However, officers should not conclude that in order to avoid risk every person should be handcuffed, regardless of the circumstances.

In most situations handcuffs should be applied with the hands behind the person's back. When feasible, handcuffs shall be double-locked to prevent tightening, which may cause undue discomfort or injury to the hands or wrists.

In situations where one pair of handcuffs does not appear sufficient to restrain the individual or may cause unreasonable discomfort due to the person's size, officers should consider alternatives, such as using an additional set of handcuffs or multiple plastic cuffs.

Handcuffs should be removed as soon as it is reasonable or after the person has been searched and is safely confined within a detention facility.

301.5 APPLICATION OF SPIT HOODS

Spit hoods are temporary protective devices designed to prevent the wearer from biting and/or transferring or transmitting fluids (saliva and mucous) to others.

Spit hoods may be placed upon persons in custody when the officer reasonably believes the person will bite or spit, either on a person or in an inappropriate place. They are generally used during application of a physical restraint, while the person is restrained, or during or after transport.

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Officers utilizing spit hoods should ensure that the spit hood is fastened properly to allow for adequate ventilation and that the restrained person can breathe normally. Officers should provide assistance during the movement of restrained individuals due to the potential for impaired or distorted vision on the part of the individual. Officers should avoid comingling individuals wearing spit hoods with other detainees.

Spit hoods should not be used in situations where the restrained person is bleeding profusely from the area around the mouth or nose, or if there are indications that the person has a medical condition, such as difficulty breathing or vomiting. In such cases, prompt medical care should be obtained. If the person vomits while wearing a spit hood, the spit hood should be promptly removed and discarded. Persons who have been sprayed with oleoresin capsicum (OC) spray should be thoroughly decontaminated including hair, head and clothing prior to application of a spit hood.

Those who have been placed in a spit hood should be continually monitored and shall not be left unattended until the spit hood is removed. Spit hoods shall be discarded after each use.

When applying the hoods, the following guidelines should be followed:

- (a) If possible, officers shall notify a supervisor of the intent to apply the spit hood. In all cases, a supervisor shall be notified as soon as possible after the application of the spit hood.

301.6 APPLICATION OF AUXILIARY RESTRAINT DEVICES

Auxiliary restraint devices include transport belts, waist or belly chains, transportation chains, leg irons and other similar devices. Auxiliary restraint devices are intended for use during long-term restraint or transportation. They provide additional security and safety without impeding breathing, while permitting adequate movement, comfort and mobility.

Only Department-authorized devices may be used. Any person in auxiliary restraints should be monitored as reasonably appears necessary.

301.7 APPLICATION OF LEG RESTRAINT DEVICES

Leg restraints may be used to restrain the legs of a violent or potentially violent person when it is reasonable to do so during the course of detention, arrest or transportation. Only restraint devices approved by the Department shall be used.

In determining whether to use the leg restraint, officers should consider:

- (a) Whether the officer or others could be exposed to injury due to the assaultive or resistant behavior of a suspect.
- (b) Whether it is reasonably necessary to protect the suspect from his/her own actions (e.g., hitting his/her head against the interior of the patrol unit, running away from the arresting officer while handcuffed, kicking at objects or officers).
- (c) Whether it is reasonably necessary to avoid damage to property (e.g., kicking at windows of the vehicle).

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301.7.1 GUIDELINES FOR USE OF HOBBLE RESTRAINTS

When applying hobble restraints the following guidelines should be followed:

- (a) If possible, officers shall notify a supervisor of the intent to apply the hobble restraint device. In all cases, a supervisor shall be notified as soon as possible after the application of the hobble restraint device.
- (b) Once applied, absent a medical or other emergency, restraints should remain in place until the officer arrives at the jail, detention facility, or other facility or the person no longer reasonably appears to pose a threat.
- (c) Once secured, the person should be placed in a seated or upright position, secured with a seat belt, and shall not be placed on his/her stomach for an extended period, as this could reduce the person's ability to breathe.
- (d) The restrained person should be continually monitored by an officer while in the leg restraint. The officer should ensure that the person does not roll onto and remain on his/her stomach.
- (e) The officer should look for signs of labored breathing and take appropriate steps to relieve and minimize any obvious factors contributing to this condition.
- (f) When transported by ambulance/paramedic unit, the restrained person should be accompanied by an officer when requested by medical personnel. The transporting officer should describe to medical personnel any unusual behaviors or other circumstances the officer reasonably believes would be potential safety or medical risks to the subject (e.g., prolonged struggle, extreme agitation, impaired respiration).

Control Devices and Techniques

302.1 PURPOSE AND SCOPE

This policy provides guidelines for the use and maintenance of control devices that are described in this policy.

302.2 POLICY

In order to control subjects who are violent or who demonstrate the intent to be violent, the Chief Probation Officer authorizes officers to use control devices in accordance with the guidelines in this policy and the Use of Force Policy.

302.3 ISSUING, CARRYING AND USING CONTROL DEVICES

Control devices described in this policy may be carried and used by members of this department only if the device has been issued by the Department or approved by the Chief Probation Officer or the authorized designee.

Only officers who have successfully completed department-approved training in the use of any control device are authorized to carry and use the device.

Control devices may be used when a decision has been made to control, restrain or arrest a subject who is violent or who demonstrates the intent to be violent, and the use of the device appears reasonable under the circumstances. When reasonable, a verbal warning and opportunity to comply should precede the use of these devices.

When using control devices, officers should carefully consider potential impact areas in order to minimize injuries and unintentional targets.

302.4 RESPONSIBILITIES

302.4.1 DIVISION MANAGER RESPONSIBILITIES

The Division Manager will review staff requests for the issue of a controlled device, verify successful completion of required training and make recommendations to the Chief Probation Officer.

302.4.2 CHIEF PROBATION OFFICER RESPONSIBILITIES

The Chief Probation Officer may authorize the use of a control device by selected personnel or members of specialized units who have successfully completed the required training.

302.4.3 SUPERVISING PROBATION OFFICER RESPONSIBILITIES

The Supervising Probation Officer assigned to training and safety equipment shall control the inventory and issuance of all chemical control devices and shall ensure that all damaged, inoperative, outdated or expended control devices are properly disposed of, repaired or replaced.

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Every control device will be periodically inspected by the Supervising Probation Officer or the designated instructor for that particular control device.

302.4.4 USER RESPONSIBILITIES

All normal maintenance, charging or cleaning shall remain the responsibility of personnel using the various devices.

Any damaged, inoperative, outdated or expended control devices, along with documentation explaining the cause of the damage, shall be returned to the Senior DPO for disposition. Damage to County property forms shall also be prepared and forwarded through the chain of command, when appropriate, explaining the cause of damage.

302.5 BATON GUIDELINES

The need to immediately control a suspect must be weighed against the risk of causing serious injury. The head, neck, throat, spine, heart, kidneys and groin should not be intentionally targeted except when the officer reasonably believes the suspect poses an imminent threat of serious bodily injury or death to the officer or others.

When carrying a baton, field supervision officer's personnel shall carry the baton in its authorized holder on the equipment belt. Non-field personnel may carry the baton as authorized and in accordance with the needs of their assignment or at the direction of their supervisor.

302.6 OLEORESIN CAPSICUM (OC) GUIDELINES

As with other control devices, oleoresin capsicum (OC) spray may be considered for use to bring under control an individual, groups of individuals, or aggressive animals who are engaging in, or are about to engage in violent behavior. OC spray should not, however, be used against individuals or groups who merely fail to disperse or do not reasonably appear to present a risk to the safety of officers or the public.

302.6.1 OC SPRAY

Uniformed personnel carrying OC spray shall carry the device in its holster on the equipment belt. Plainclothes and non-field personnel may carry OC spray as authorized, in accordance with the needs of their assignment or at the direction of their supervisor.

302.6.2 TREATMENT FOR OC SPRAY EXPOSURE

Persons who have been sprayed with or otherwise affected by the use of OC should be promptly provided with clean water to cleanse the affected areas. Those persons who complain of further severe effects shall be examined by appropriate medical personnel.

302.7 TRAINING FOR CONTROL DEVICES

The Supervising Probation Officer in charge of STC training shall ensure that all personnel who are authorized to carry a control device have been properly trained and certified to carry the specific control device and are retrained or recertified as necessary.

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- (a) Proficiency training shall be monitored and documented by a certified, control-device weapons or tactics instructor.
- (b) All training and proficiency for control devices will be documented in the officer's training file.
- (c) Officers who fail to demonstrate proficiency with the control device or knowledge of this agency's Use of Force Policy will be provided remedial training. If an officer cannot demonstrate proficiency with a control device or knowledge of this agency's Use of Force Policy after remedial training, the officer will be restricted from carrying the control device and may be subject to discipline.

302.8 REPORTING USE OF CONTROL DEVICES AND TECHNIQUES

Any application of a control device or technique listed in this policy shall be documented in the related incident report and reported pursuant to the Use of Force Policy.

Officer-Involved Shootings and Deaths

303.1 PURPOSE AND SCOPE

Tuolumne County has a multi-agency agreement which defers investigations of officer-involved shootings and deaths to the District Attorney's Office or the agency with jurisdictional authority.

In other incidents not covered by this policy, the Chief Probation Officer may decide that the investigation will follow the process provided in this policy.

303.2 POLICY

The policy of the Tuolumne County Probation Departments to ensure that officer-involved shootings and deaths are investigated in a thorough, fair and impartial manner.

303.3 TYPES OF INVESTIGATIONS

Officer-involved shootings and deaths involve several separate investigations. The investigations may include:

- A criminal investigation of the suspect's actions.
- A criminal investigation of the involved officer's actions.
- An administrative investigation as to policy compliance by involved officers.
- A civil investigation to determine potential liability.

303.4 CONTROL OF INVESTIGATIONS

Investigators from surrounding agencies may be assigned to work on the criminal investigation of officer-involved shootings and deaths. The Chief Probation Officer may assign a manager to liaison with the agency handling the investigation.

Jurisdiction is determined by the location of the shooting or death. The following scenarios outline the jurisdictional responsibilities for investigating officer-involved shootings and deaths.

303.4.1 CRIMINAL INVESTIGATION OF SUSPECT ACTIONS

The investigation of any possible criminal conduct by the suspect is controlled by the agency in whose jurisdiction the suspect's crime occurred.

If multiple crimes have been committed in multiple jurisdictions, identification of the agency that will control the investigation may be reached in the same way as with any other crime, and in accordance with the protocol established by the District Attorney, Sheriff, Chief of Police, and California Highway Patrol.

303.4.2 CRIMINAL INVESTIGATION OF OFFICER ACTIONS

The control of the criminal investigation into the involved officer's conduct during the incident will be determined by the multi-agency protocol in place.

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303.4.3 ADMINISTRATIVE AND CIVIL INVESTIGATION

Regardless of where the incident occurs, the administrative and civil investigation of each involved officer is controlled by the respective employing agency.

303.5 INVESTIGATION PROCESS

The following procedures are guidelines used in the investigation of an officer-involved shooting or death.

303.5.1 UNINVOLVED OFFICER RESPONSIBILITIES

Upon arrival at the scene of an officer-involved shooting, the first uninvolved officer will be the officer-in-charge and will assume the responsibilities of a supervisor until properly relieved. This officer should, as appropriate:

- (a) Secure the scene and identify and eliminate hazards for all those involved.
- (b) Take reasonable steps to obtain emergency medical attention for injured individuals.
- (c) Request additional resources from the Department or other agencies.
- (d) Coordinate a perimeter or pursuit of suspects.
- (e) Check for injured persons and evacuate as needed.
- (f) Brief the supervisor upon arrival.
- (g) Notify the District Attorney Investigator or the on-call District Attorney Investigator through dispatch if after hours.
- (h) Notify the Chief Probation Officer or Division Manager if the Chief Probation Officer is unavailable.

303.5.2 NOTIFICATIONS BY CHIEF PROBATION OFFICER/DIVISION MANAGER

The following person(s) shall be notified as soon as practicable:

- County Counsel
- County Administrative Officer
- Human Resources to determine psychological/peer support personnel
- Involved officer's legal representative and/or union representative (if requested)

303.5.3 CHIEF PROBATION OFFICER/DIVISION MANAGER RESPONSIBILITIES

Any department member of management responding to the scene shall not interfere or impede the investigative process and any communication that the involved officer(s) shall be of a supportive manner.

303.5.4 INVOLVED OFFICERS

The following shall be considered for the involved officer:

- (a) Any request for legal or union representation will be accommodated.

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1. Involved officers shall not be permitted to meet collectively or in a group with an attorney or any representative prior to providing a formal interview or report.
- (b) Discussions with licensed attorneys will be considered privileged as attorney-client communications.
- (c) Discussions with agency representatives/employee groups will be privileged only as to the discussion of non-criminal information (Government Code § 3303(i)).
- (d) A licensed psychotherapist may be provided through the Employee Assistance Program to each involved officer. A licensed psychotherapist may also be provided to any other affected members also through the Employee Assistance Program, upon request.
 1. Interviews with a licensed psychotherapist will be considered privileged.
 2. An interview or session with a licensed psychotherapist may take place prior to the member providing a formal interview or report. However, involved members shall not be permitted to consult or meet collectively or in a group with a licensed psychotherapist prior to providing a formal interview or report.
 3. A separate fitness-for-duty exam may also be required (see the Fitness for Duty Policy).

Care should be taken to preserve the integrity of any physical evidence present on the involved officer's equipment or clothing, such as blood or fingerprints, until investigators or lab personnel can properly retrieve it.

Each involved officer shall be given reasonable paid administrative leave following an officer-involved shooting or death. It shall be the responsibility of the Chief Probation Officer to make schedule adjustments to accommodate such leave.

303.6 CRIMINAL INVESTIGATION

The District Attorney's Office is responsible for the criminal investigation into the circumstances of any officer-involved shooting or death as per the multi-agency agreement.

303.6.1 REPORTS BY INVOLVED OFFICERS

In the event that suspects remain outstanding or subject to prosecution for related offenses, this department shall retain the authority to require involved officers to provide sufficient information for related incident reports to facilitate the apprehension and prosecution of those individuals (Government Code § 3304(a)).

Nothing in this section shall be construed to deprive an involved officer of the right to consult with legal counsel prior to completing any such criminal report.

Reports related to the prosecution of criminal suspects will be processed according to normal procedures but should also be included for reference in the investigation of the officer-involved shooting or death.

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All related department reports, except administrative and/or privileged reports, will be forwarded to the District Attorney's Office for approval. Privileged reports shall be maintained exclusively by members who are authorized such access. Administrative reports will be forwarded to the Chief Probation Officer.

303.7 ADMINISTRATIVE INVESTIGATION

In addition to all other investigations associated with an officer-involved shooting or death, this department will conduct an internal administrative investigation of officers to determine conformance with department policy. The investigation will be conducted in accordance with the Personnel Complaints Policy.

Interviews of members shall be subject to department policies and applicable laws (see the Personnel Complaints Policy).

- (a) Any officer involved in a shooting or death may be requested or administratively compelled to provide a blood sample for alcohol/drug screening. Absent consent from the officer, such compelled samples and the results of any such testing shall not be disclosed to any criminal investigative agency.
- (b) If any officer has voluntarily elected to provide a statement to criminal investigators, the assigned administrative investigator should review that statement before proceeding with any further interview of that involved officer.
 - 1. If a further interview of the officer is deemed necessary to determine policy compliance, care should be taken to limit the inquiry to new areas with minimal, if any, duplication of questions addressed in the voluntary statement. The involved officer shall be provided with a copy of his/her prior statement before proceeding with any subsequent interviews.
- (c) In the event that an involved officer has elected to not provide criminal investigators with a voluntary statement, the assigned administrative investigator shall conduct an administrative interview to determine all relevant information.
 - 1. Although this interview should not be unreasonably delayed, care should be taken to ensure that the officer's physical and psychological needs have been addressed before commencing the interview.
 - 2. If requested, the officer shall have the opportunity to select an uninvolved representative to be present during the interview. However, in order to maintain the integrity of each individual officer's statement, involved officers shall not consult or meet with a representative or attorney collectively or in groups prior to being interviewed (Government Code § 3303(i)).
 - 3. Administrative interviews should be recorded by the investigator. The officer may also record the interview (Government Code § 3303(g)).
 - 4. The officer shall be informed of the nature of the investigation. If an officer refuses to answer questions, he/she should be given his/her Lybarger or Garrity rights and ordered to provide full and truthful answers to all questions. The officer shall be informed that the interview will be for administrative purposes only and that the statement cannot be used criminally.

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5. The Internal Affairs Investigator shall compile all relevant information and reports necessary for the Department to determine compliance with applicable policies.
6. Any other indications of potential policy violations shall be determined in accordance with standard disciplinary procedures.

303.8 DEBRIEFING

Following an officer-involved shooting or death, the Tuolumne County Probation Department should conduct both a critical incident/stress debriefing and a tactical debriefing.

303.8.1 CRITICAL INCIDENT/STRESS DEBRIEFING

A critical incident/stress debriefing should occur as soon as practicable. The Administration is responsible for organizing the debriefing. Notes and recorded statements should not be taken because the sole purpose of the debriefing is to help mitigate the stress-related effects of a traumatic event.

The debriefing is not part of any investigative process. Care should be taken not to release or repeat any communication made during a debriefing unless otherwise authorized by policy, law or a valid court order.

Attendance at the debriefing shall only include those members of the Department directly involved in the incident, which can include support personnel (e.g., dispatchers, other civilian personnel). Family or other support personnel may attend with the concurrence of those involved in the incident. The debriefing shall be closed to the public and should be closed to all other members of the Department, including supervisory and Internal Affairs personnel.

303.8.2 TACTICAL DEBRIEFING

A tactical debriefing should take place to identify any training or areas of policy that need improvement. The Chief Probation Officer should identify the appropriate participants. This debriefing should not be conducted until all involved members have provided recorded or formal statements to criminal and/or administrative investigators.

303.9 MEDIA RELATIONS

The Office of County Counsel handles all Public Records Act requests and works closely with the District Attorney on such matters. Department members receiving inquiries regarding officer-involved shootings or deaths shall refrain from public comments.

Firearms

305.1 PURPOSE AND SCOPE

The Chief Probation Officer shall approve and authorize the issuance of firearms to eligible officers. This policy provides guidelines for issuing firearms, the safe and legal carrying of firearms, firearms maintenance and firearms training.

This policy does not apply to issues related to the use of a firearm that are addressed in the Use of Force or Officer-Involved Shootings and Deaths policies.

305.2 POLICY

The Tuolumne County Probation Department will equip officers authorized and assigned to positions in which there is a justified need to be armed. Authorization will be determined by the Chief Probation Officer. The Department will ensure firearms are appropriate, in good working order and that relevant training is provided.

If not specifically authorized to carry a firearm, no officer or employee of the Department shall have a firearm while on duty in his or her custody, control or in his or her department vehicle, unless it is a weapon which was seized in the course of assigned duties.

Armed Probation Officers called back to work or temporarily assigned to cover the duties of an unarmed position are not authorized to carry firearms while performing these duties, unless specifically authorized to do so by the Chief Probation Officer.

305.3 MINIMUM ELIGIBILITY

Armed Officers must be in good standing with the Department. For the purposes of this policy good standing shall be defined as possessing and consistently demonstrating attributes indicative of good judgment, professional conduct and trustworthy conduct. It shall include, but not be limited to, satisfactory completion of the following:

- (a) Background investigation
- (b) Psychological evaluation addressing the subject matter of arming
- (c) A recent medical evaluation

305.4 AUTHORIZED FIREARMS, AMMUNITION AND OTHER WEAPONS

Officers shall only use firearms that are issued or approved by the Department and have been thoroughly inspected by the Range Master or by County Range Instructors. Except in an emergency or as directed by a supervisor, no firearm shall be carried by an officer who has not qualified with that firearm at an authorized range.

All other weapons not provided by the Department, including, but not limited to, edged weapons, chemical or electronic weapons, impact weapons or any weapon prohibited or restricted by law or that is not covered elsewhere by department policy, may not be carried by officers in the performance of their official duties without the express written authorization of the Chief Probation

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Officer. This exclusion does not apply to the carrying of a single knife that is not otherwise prohibited by law.

305.4.1 FIREARMS

The authorized department-issued handgun is the Sig Sauer Model P320 9mm, or any other firearm approved by the Chief Probation Officer.

305.4.2 OFF-DUTY FIREARMS

The Department has no authority to regulate possession or transportation on non-departmental firearms off-duty. An officer carrying a firearm off-duty does so at his or her own risk and without the authorization of the Chief Probation Officer.

Officers are prohibited from carrying any firearm issued by the Department while off-duty except when transporting to use for work, at a firing range, as necessary for training or for any other authorized activity. When transporting the Department's firearms off-duty, officers shall store them unloaded in a locked container, such as a gun safe or secured within a locked trunk. Officers shall avoid the need to store or transport firearms off-duty by traveling direct routes and limiting unnecessary stops for personal business. If an officer stops to conduct personal business while transporting a Department firearm, the firearm shall be left secured as required by the vehicle storage section of this policy.

305.4.3 AMMUNITION

Officers shall carry only department-authorized ammunition. Officers shall be issued fresh duty ammunition in the specified quantity during the officer's first scheduled qualification each year. Replacements for unserviceable or depleted ammunition issued by the Department shall be dispensed by the County Range Master or a range instructor when needed, in accordance with established policy.

305.5 EQUIPMENT AND IDENTIFICATION CARD

Firearms shall be maintained in a clean, serviceable condition. Armed officers shall carry their County issued 830.5 PC Identification Card while armed. Any officer who is removed from an armed position shall surrender his or her 830.5 PC Identification Card along with his or her Department issued firearm and equipment to the Chief Probation Officer or a designee.

305.5.1 HOLSTERS

Only department-approved holsters shall be used and worn. Officers shall periodically inspect their holsters to make sure they are serviceable and provide the proper security and retention of the handgun.

305.6 SAFE HANDLING, INSPECTION AND STORAGE

Officers shall maintain the highest level of safety when handling firearms and shall consider the following:

- (a) Officers shall not unnecessarily display or handle any firearm.

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- (b) Officers shall be governed by all rules and regulations pertaining to the use of the range and shall obey all orders issued by the County Range Master or Range Instructors. Officers shall not dry fire or practice quick draws except under the supervision of the County Range Master or a Range Instructor.
- (c) Officers shall not clean, repair, load or unload a firearm anywhere in the Department, except where clearing devices or barrels are present.
- (d) Officers will carry handguns in a concealed manner (i.e., covered with a loose fitting shirt, vest or coat) or secure them within the Department's gun safes while working in the office, unless officers are only temporarily in the office and expect to return to work in the field on the same shift.
- (e) Officers carrying concealed firearms shall utilize authorized holsters and qualify with a Range Instructor prior to carrying concealed and regularly thereafter. Officers carrying concealed shall have their badges displayed and carry handcuffs while armed.
- (f) Officers shall not place or store any firearm or other weapon on department premises except where the place of storage is locked.
- (g) Officers shall not use any automatic firearm, heavy caliber rifle, gas or other type of chemical weapon.
- (h) Officers shall not carry firearms into any detention facility. When securing or processing an arrestee, officers shall place all firearms in the designated secure location.
- (i) Officers partnered with Sheriff's deputies shall familiarize themselves with the standard issue shotgun and any patrol rifle carried by the partnering deputy. Familiarization with these firearms should prepare officers to use, reload and safely store these weapons if required to do so in emergency situations. All training with shotguns and patrol rifles shall be conducted under the guidance of the County Range Master or a Range Instructor certified to provide such training. Officers partnered with Sheriff's deputies shall refresh their skills with patrol rifles and shotguns annually.

305.6.1 INSPECTION MODIFICATION AND REPAIRS

Firearms shall be inspected regularly and officers shall ensure that the firearm is carried in the proper condition and loaded with approved ammunition. Any firearm issued by the Department that is determined by an officer to be malfunctioning or in need of service or repair shall not be carried. Firearms in need of service or repair shall be promptly presented to the County Range Master, a Range Instructor, or a designated officer with Armorer certification for inspection and repair. Any firearm deemed in need of repair or service shall be immediately removed from service. If the firearm is the officer's primary duty firearm, a replacement firearm shall be issued to the officer until the duty firearm is serviceable. All repairs and/or modifications of department-issued weapons not performed by the County Range Master, a County Range Instructor, or designated officer certified as an Armorer must be approved in advance by the Chief Probation Officer.

305.6.2 STORAGE AT HOME

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Officers shall ensure that all firearms and ammunition are locked and secured while in their homes, vehicles or any other area under their control and in a manner that will keep them inaccessible to children and others who should not have access. Officers shall not permit department-issued firearms to be handled by anyone not authorized by the Department to do so. Officers should be aware that negligent storage of a firearm could result in civil and criminal liability (Penal Code § 25100).

305.6.3 STORAGE IN VEHICLES

When leaving a handgun in an unattended vehicle, officers shall ensure that it is locked in the trunk, or in a locked container which is placed out of view, or in a locked container that is permanently affixed to the vehicle's interior and not in plain view (Penal Code § 16850; Penal Code § 25140; Penal Code § 25452).

If the vehicle does not have a trunk or a locked container, then the firearm should be locked within the center utility console that can be locked with a padlock, keylock, combination lock or other similar locking device (Penal Code § 25140).

Officers are exempt from these requirements during circumstances requiring immediate aid or action in the course of official duties (Penal Code § 25140).

305.6.4 ALCOHOL AND DRUGS

Firearms shall not be carried by any officer who has consumed any amount of an alcoholic beverage, or has taken any drugs or medication, that would tend to adversely affect the officer's senses or judgment.

305.7 FIREARMS TRAINING AND QUALIFICATIONS

Probation Officers conditionally authorized to carry a firearm must successfully complete Probation Officer Core PC 832 Firearm Familiarization, and a 40 hour force and weaponry STC certified training or an equivalent POST firearms training program for armed peace officers with the approval of the Chief Probation Officer.

All officers who carry a firearm are required to qualify quarterly with their duty weapon on an approved range course. The County Range Master or County Range Instructors shall keep accurate records of quarterly qualifications, any repairs or maintenance to duty weapons and any training supplied to Probation Officers at the direction of the Chief Probation Officer. In addition to regular qualification schedules, the County Range Master and/or Range Instructors shall be responsible for providing all armed personnel with annual practical training designed to simulate field situations and shooting in low light conditions.

At least annually, all officers carrying a firearm shall receive training on the department's Use of Force Policy and demonstrate their knowledge and understanding.

All armed officer training and qualification records will be maintained in an officer's training file by the Supervising Probation Officer in charge of training. The Supervising Probation Officer in charge of training shall coordinate with armed officers and County Range Instructors to receive updated

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officer records. The Supervising Probation Officer in charge of training shall keep the assigned Division Manager apprised of any armed officers deficient in their training or qualifications records.

305.7.1 NON QUALIFICATION

If an officer fails to meet minimum standards for firearms training or qualification for any reason, including injury, illness, duty status or scheduling conflict, that officer shall submit a memorandum to his/her immediate supervisor and Division Manager prior to the end of the required training or qualification period.

Those who fail to meet minimum standards or qualify on their first shooting attempt shall be provided remedial training and will be subject to the following requirements:

- (a) Additional range assignments may be scheduled to assist the officer in demonstrating consistent firearm proficiency.
- (b) Officers shall be given credit for a range training or qualification when obtaining a qualifying score or meeting standards after remedial training.
- (c) No range credit will be given for the following:
 - 1. Unauthorized range make-up
 - 2. Failure to meet minimum standards or qualify after remedial training

Officers who repeatedly fail to meet minimum standards will be removed from field assignment and may be subject to disciplinary action.

305.8 FIREARM DISCHARGE

Except during training, any officer who discharges a firearm intentionally or unintentionally, while on-duty, shall make a verbal report to his/her Division Manager, or the Assistant Chief Probation Officer, or the Chief Probation Officer as soon as circumstances permit. If the discharge results in injury or death to another person, additional statements and reports shall be made in accordance with the Officer-Involved Shooting Policy. If a firearm was discharged as a use of force, the involved officer shall adhere to the additional reporting requirements set forth in the Use of Force Policy.

In all other cases, written reports shall be made as follows:

- (a) At the time of the incident, the officer shall file a written report with his/her Division Manager, the Assistant Chief, or the Chief Probation Officer and provide a recorded statement to investigators prior to the end of shift unless otherwise directed.

305.8.1 DESTRUCTION OF ANIMALS

Officers are authorized to use firearms to stop an animal in circumstances where the animal reasonably appears to pose an imminent threat to human safety and alternative methods are not reasonably available or would likely be ineffective.

In circumstances where there is sufficient advance notice that a potentially dangerous animal may be encountered, officers should develop reasonable contingency plans for dealing with the animal (e.g., fire extinguisher, oleoresin capsicum (OC) spray, assistance from an animal control officer).

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Nothing in this policy shall prohibit any officer from shooting a dangerous animal if circumstances reasonably dictate that a contingency plan has failed or becomes impractical.

305.8.2 WARNING AND OTHER SHOTS

Generally, warning shots or shots fired for the purpose of summoning aid are discouraged and may not be discharged unless the officer reasonably believes that they appear necessary, effective and reasonably safe.

305.9 COUNTY RANGE MASTER DUTIES

The range will be under the exclusive control of the County Range Master or the on-duty Range Instructor(s). All officers attending will follow the directions of the County Range Master or the Range Instructor on duty. Range Instructors will maintain a roster of all Probation Officers attending the range and will submit the roster to the Supervising Probation Officer in charge of training after each range date. Failure of any officer to sign in and out with the County Range Master or on-duty Range Instructor may result in non-qualification.

The range shall remain operational and accessible to Department officers during hours established by the Tuolumne County Sheriff's Office.

The County Range Master or a designated Range Instructor has the responsibility of making periodic inspections, at least once a year, of all duty firearms carried by officers of this department to verify proper operation. The County Range Master has the authority to deem any department-issued firearm unfit for service.

The County Range Master has the responsibility for insuring each officer meets the minimum requirements during training shoots and, on at least a yearly basis, can demonstrate proficiency in the care, cleaning and safety of all firearms the officer is authorized to carry.

The County Range Master or an authorized Range Instructor shall complete and submit to the Supervising Probation Officer in charge of training documentation of all training courses provided.

Vehicle Pursuits

306.1 PURPOSE AND SCOPE

Vehicle pursuits expose innocent citizens, law enforcement officers and fleeing violators to the risk of serious injury or death. The primary purpose of this policy is to provide officers with guidance in balancing the safety of the public and themselves against law enforcement's duty to apprehend violators of the law. Another purpose of this policy is to reduce the potential for pursuit-related collisions. Vehicular pursuits require officers to exhibit a high degree of common sense and sound judgment. Officers must not forget that the immediate apprehension of a suspect is generally not more important than the safety of the public and pursuing officers.

Deciding whether to pursue a motor vehicle is a critical decision that must be made quickly and under difficult and unpredictable circumstances. In recognizing the potential risk to public safety created by vehicular pursuits, no officer or supervisor shall be criticized or disciplined for deciding not to engage in a vehicular pursuit because of the risk involved. This includes circumstances where department policy would permit the initiation or continuation of the pursuit. It is recognized that vehicular pursuits are not always predictable and decisions made pursuant to this policy will be evaluated according to the totality of the circumstances reasonably available at the time of the pursuit.

Officers must remember that the most important factors to the successful conclusion of a pursuit are proper self-discipline and sound professional judgment. Officer's conduct during the course of a pursuit must be objectively reasonable; that is, what a reasonable officer would do under the circumstances. An unreasonable individual's desire to apprehend a fleeing suspect at all costs has no place in professional law enforcement.

306.1.1 VEHICLE PURSUIT DEFINED

A vehicle pursuit is an event involving one or more law enforcement officers attempting to apprehend a suspect, who is attempting to avoid arrest while operating a motor vehicle by using high-speed driving or other evasive tactics, such as driving off a highway, turning suddenly, or driving in a legal manner but willfully failing to yield to an officer's signal to stop.

306.2 OFFICER RESPONSIBILITIES

It shall be the policy of this department that officers shall not operate a vehicle in a pursuit if they have not been trained in high-speed pursuit.

Field officers equipped with police radios should make an effort to contact the Sheriff's dispatch to report any situations where unsafe drivers or absconding offenders are placing the public's safety in jeopardy.

Mobile and Portable Radio Use

307.1 PURPOSE AND SCOPE

The purpose of this policy is to ensure direct communication with Tuolumne County Sheriff's Office dispatch during field supervision, transportation of subjects/minors in-custody and special assignments. Maintaining radio communication will also increase officer safety in providing dispatch with your location during field supervision and other assignments.

307.2 PORTABLE RADIO USE

Portable radios shall be used during probation searches, field contacts, warrant arrests and when working with partner law enforcement agencies in the field.

307.3 MOBILE RADIOS

Certain vehicles are equipped with mobile radios and should only be used by officers/staff conducting field operations and/or transports of in-custody persons.

- (a) Transportation drivers and officers transporting in-custody persons shall use a vehicle equipped with a mobile radio.
- (b) Should the inventory of vehicles in the fleet be limited, it is recognized a vehicle with a mobile radio may be the only one available to drive.

Domestic Violence

308.1 PURPOSE AND SCOPE

The purpose of this policy is to provide the guidelines necessary to deter, prevent and reduce domestic violence through probation supervision and to address domestic violence as a serious crime against society. The policy specifically addresses the commitment of this department to take enforcement action when appropriate and to provide assistance to victims of domestic violence.

Officers of this department shall notify the agency having primary enforcement jurisdiction whenever the employee encounters or discovers alleged or possible domestic violence. Said agency will then take the lead in the investigation.

308.1.1 DEFINITIONS

Definitions related to this policy include:

Court order - All forms of orders related to domestic violence, that have been issued by a court of this state or another, whether civil or criminal, regardless of whether service has been made.

308.2 POLICY

The Tuolumne County Probation Department's response to incidents of domestic violence and violations of related court orders shall stress enforcement of the law to protect the victim and shall communicate the philosophy that domestic violence is criminal behavior. It is also the policy of this department to facilitate victims' and offenders' access to appropriate civil remedies and community resources whenever feasible.

308.3 OFFICER SAFETY

Domestic violence cases often place officers in emotionally charged and sometimes highly dangerous environments. No provision of this policy is intended to supersede the responsibility of all officers to exercise due caution and reasonable care in providing for the safety of any officers and parties involved.

308.4 INVESTIGATIONS

Investigation shall be conducted pursuant to the policy and procedures of the lead law enforcement agency.

308.5 FOREIGN COURT ORDERS

Various types of orders may be issued in domestic violence cases. Any foreign court order properly issued by a court of another state, Indian tribe or territory shall be enforced by officers as if it were the order of a court in this state. An order should be considered properly issued when it reasonably appears that the issuing court has jurisdiction over the parties and reasonable notice and opportunity to respond was given to the party against whom the order was issued (18 USC § 2265). An otherwise valid out-of-state court order shall be enforced, regardless of whether the order has been properly registered with this state.

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Canadian domestic violence protection orders shall also be enforced in the same manner as if issued in this state (Family Code § 6452).

308.6 VERIFICATION OF COURT ORDERS

Determining the validity of a court order, particularly an order from another jurisdiction, can be challenging. Therefore, in determining whether there is probable cause to make an arrest for a violation of any court order, officers should carefully review the actual order when available, and, where appropriate and practicable:

- (a) Ask the subject of the order about his/her notice or receipt of the order, his/her knowledge of its terms and efforts to respond to the order.
- (b) Check available records or databases that may show the status or conditions of the order.
- (c) Contact the issuing court to verify the validity of the order.
- (d) Contact a law enforcement official from the jurisdiction where the order was issued to verify information.

Officers should document in an appropriate report their efforts to verify the validity of an order, regardless of whether an arrest is made. Officers should contact a supervisor for clarification when needed.

308.7 LEGAL MANDATES AND RELEVANT LAWS

California law provides for the following:

308.7.1 PUBLIC ACCESS TO POLICY

A copy of this domestic violence policy will be provided to members of the public upon request (Penal Code § 13701).

Search and Seizure

309.1 PURPOSE AND SCOPE

Both the federal and state Constitutions provide every individual with the right to be free from unreasonable searches and seizures. This policy provides general guidelines for Tuolumne County Probation Department officers to consider when dealing with search and seizure issues.

309.2 POLICY

It is the policy of the Tuolumne County Probation Department to respect the fundamental privacy rights of individuals. Officers of this department will conduct searches in strict observance of the constitutional rights of persons being searched. All seizures by this department will comply with relevant federal and state law governing the seizure of persons and property.

The Department will provide relevant and current training to officers as guidance for the application of current law, local community standards and prosecutorial considerations regarding specific search and seizure situations, as appropriate.

309.3 SEARCHES

The U.S. Constitution generally provides that a valid warrant is required in order for a search to be valid. There are, however, several exceptions that permit a warrantless search.

Examples of law enforcement activities that are exceptions to the general warrant requirement include, but are not limited to, searches pursuant to the following:

- Probation/Parole Searches
- Valid consent
- Incident to a lawful arrest
- Legitimate community caretaking interests (i.e. personal property of arrestees)
- Vehicle searches under certain circumstances
- Exigent circumstances

Certain other activities are recognized by federal and state courts and by certain statutes as legitimate law enforcement activities that also do not require a warrant. Such activities may include seizure and examination of abandoned property, and observations of activities and property located on open public areas.

Because case law regarding search and seizure is constantly changing and subject to interpretation by the courts, each officer of this department is expected to act in each situation according to current training and his/her familiarity with clearly established rights as determined by case law.

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Whenever practicable, officers are encouraged to contact a supervisor to resolve questions regarding search and seizure issues prior to electing a course of action.

309.4 SEARCH PROTOCOL

Although conditions will vary and officer safety and other exigencies must be considered in every search situation, the following guidelines should be followed whenever circumstances permit:

- (a) Officers of this department will strive to conduct searches with dignity and courtesy.
- (b) Officers should explain to the person being searched the reason for the search and how the search will be conducted.
- (c) Searches should be carried out with due regard and respect for private property interests and in a manner that minimizes damage. Property should be left in a condition as close as reasonably possible to its pre-search condition.
- (d) In order to minimize the need for forcible entry, an attempt should be made to obtain keys, combinations or access codes when a search of locked property is anticipated.
- (e) When the person to be searched is of the opposite sex as the searching officer, a reasonable effort should be made to summon an officer of the same sex as the subject to conduct the search. When it is not practicable to summon an officer of the same sex as the subject, the following guidelines should be followed:
 1. Another officer or a supervisor should witness the search.
 2. The officer should not search areas of the body covered by tight-fitting clothing, sheer clothing or clothing that could not reasonably conceal a weapon.
- (f) In the case of juvenile offender's home searches, it is the policy of this department that parents are notified following a search in which they are not present for.
- (g) Before conducting a compliance search on a supervised offender, officers will verify the offender's supervision status and verify that he/she is subject to applicable search conditions.

309.5 DOCUMENTATION

Officers are responsible to document all searches in the case management system and to include, at minimum, documentation of the following:

- Reason for the search
- Any efforts used to minimize the intrusiveness of any search (e.g., asking for consent including documenting if consent was given and how it was given or keys)
- What, if any, injuries or damage occurred
- All steps taken to secure property
- The results of the search, including a description of any property or contraband seized

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- If the person searched is the opposite sex, any efforts to summon an officer of the same sex as the person being searched and the identification of any witness officer

On-Call Response

310.1 PURPOSE AND SCOPE

The purpose of this policy is to outline procedures and best practices for officers responding to after-hours calls from law enforcement when assigned to on-call. All officers are required to maintain a working telephone or be reachable by the Department-issued cell phone, and have the ability to log onto the case management system with Department-provided equipment.

310.2 ON-CALL HOURS AND CHANGES

- (a) All supervising and deputy probation officers are scheduled to cover on-call on a rotational basis. On-call personnel shall respond to calls from law enforcement received between 5:00 p.m. and 8:00 a.m. - all day on weekends and holidays. Staff is provided with an on-call cell phone.
- (b) A monthly schedule is made available to the Tuolumne County Sheriff's Department dispatchers, and the Sonora Police Department dispatchers. Any changes to the on-call schedule must be reported to both agencies by the probation officer requesting the change. Both agencies are provided with the on-call cell phone number and the Division Manager's contact information.

310.3 CALLS RELATED TO ADULT OFFENDERS

310.3.1 POST RELEASE COMMUNITY SUPERVISION (PRCS)

An offender on PRCS can be arrested at any time by law enforcement without a warrant based on probable cause the offender has violated a condition of his or her supervision. Such offenders are to be brought to the supervising agency to determine if the violation warrants a custodial sanction, (i.e., booking in the County Jail). Typically, when offenders on PRCS are arrested after hours the on-call probation officer can authorize law enforcement to place a temporary PRCS hold in County Jail without needing to respond in person. When contacted by law enforcement in such situations, the probation officer shall do the following:

- (a) Verify the offender is still on active PRCS supervision with the Department by checking the PRCS termination date in the case management system. Unless PRCS has been summarily revoked with a bench warrant that is active, the termination date must not have lapsed. Offenders in active revocation status have time tolled, so the termination date does not matter so long as the warrant has not been served.
- (b) If the offender is still active on PRCS, the officer must review the PRCS terms and conditions of supervision to determine if the information provided by law enforcement is sufficient to substantiate a violation of supervision. Offenders cannot be detained on assumptions or suspicion alone. There must be evidence available which could be presented in court or a due process hearing.
- (c) If there is insufficient information provided by the law enforcement officer, notify the officer and request additional information.

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- (d) If there is an active warrant, or sufficient probable cause to substantiate a violation of PRCS, or a fresh arrest for a new misdemeanor or felony law violation, notify the arresting officer that he or she is authorized to place a temporary PRCS “flash” hold on the offender for five days. The supervising probation officer may elect to modify the hold for up to 10 days, or file a Petition for Revocation in court if a lengthier term in custody is warranted. Determinations to extend the duration of a PRCS hold will be made by the supervision officer typically on the next business day, but will always be done within the five days authorized under the temporary hold.
- (e) The arresting officer will need the following to complete the PRCS flash hold form at the County Jail:
 - 1. The offender’s PRCS number (starting with a letter)
 - 2. The specific condition(s) of supervision the offender has violated
 - 3. A probable cause statement regarding the violation(s)
 - 4. The name of the on-call probation officer and his/her badge number to authorize the hold
 - 5. The arresting officer should also be provided with the name of the assigned supervision officer so any reports can be forwarded to him/her directly
- (f) The on call officer should be able to authorize the hold remotely without the need to respond in person. However, should the jail staff require a probation officer to complete the hold process, the on-call probation officer shall respond to the jail if it has been determined sufficient probable cause exists to place a PRCS hold on the offender.
- (g) A detailed case contact note must be left in the offender’s events in the case management system to document the law enforcement contact on PRCS offenders.
- (h) The assigned supervision officer shall also be notified of any holds placed on PRCS offenders on the next business day. If the assigned officer is off or in training, notification is to be made to the Adult Supervising Probation Officer or Adult Division Manager.

310.3.2 OTHER ADULT OFFENDERS

Should law enforcement officers in the field require after-hours verification of an offender’s supervision status, warrant status, or the terms and conditions of supervision due to the information being unavailable through RIMS or otherwise in doubt, the on-call probation officer should attempt to provide clarification. The on-call officer will need to remotely logon to the case management system in order to verify information. Officers should always attempt to review the actual scanned and signed terms and conditions of supervision and/or court orders available in the documents node.

After hours verifications are done as a courtesy to law enforcement and on-call officers are not authorized to respond to the Department or in the field for the purpose of providing verification to law enforcement. An incomplete record or the inability to access the case management system remotely shall not justify a call-out response.

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On-call officers are not authorized to place probation holds on offenders other than those offenders on PRCS as noted above.

310.3.3 ADULT ELECTRONIC MONITORING PROGRAM (EMP)

On-call EMP alerts need to be cross-referenced and verified by using the on-call laptop or tablet to determine if the alerts are valid and require a follow-up response.

Alerts involving exclusion zone violations, inclusion zone violations, strap tampers, equipment tampers, failures to enter or return on time, or unauthorized leaves require the on-call officer to verify the offender's status using the EMP case management system via the Department-supplied laptop or tablet. The on-line EMP case management system can allow the officer to determine if the alert is valid based on the offender's current status and tracking history. No follow-up contact with the offender may be required if the system shows the situation is already resolved, or is determined to be the result of poor satellite signal or faulty equipment.

If the alert involves an exclusion zone violation based on a victim, and the officer determines the violation is valid, the on-call officer shall contact the appropriate law enforcement agency and request the offender be taken into secure custody for violation of EMP and a potential violation of a criminal protective order. If the offender is wearing a GPS device that is active, the officer should notify the dispatcher that the officer can provide on-line tracking of the offender's location to officers or deputies in the field.

Any other EMP alerts that are not ruled out as faulty equipment require the on-call officer to attempt contact with the offender using the on-call cell phone. The on-call officer shall document these conversations and attempt to verify if the offender's schedule, inclusion zone(s) or other equipment needs to be adjusted. All contacts or attempted contacts with EMP offenders shall be documented as events in the department's case management system and brought to the attention of the assigned supervising officer and the Supervising Probation Officer in charge of EMP on the next business day.

310.4 RESPONDING TO DISPATCH REGARDING JUVENILES

- (a) When a call to respond is received, it is acceptable to ask dispatch who is being detained, reason for detention and if the minor has used alcohol or controlled substances in the last 24 hours prior to responding.
- (b) If there is any indication the minor is under the influence of alcohol or any controlled substance, or has been injured in any manner, the law enforcement agency is to have the minor medically cleared by staff at Sonora Regional Medical Center prior to bringing the minor to the Probation Department.

310.5 RESPONDING TO THE DEPARTMENT TO TAKE CUSTODY OF JUVENILE

- (a) Upon arrival at the Probation Department, the officer should use discretion prior to the law enforcement officer leaving. For example, if the juvenile is combative, or behaving

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in an unpredictable or violent manner, do not hesitate to ask law enforcement to remain with you until a probation aide or other probation employee can respond.

- (b) Never allow law enforcement to leave prior to placing the minor in custody restraints (if detention in juvenile hall is necessary) and/or securing the minor in the detention room.
- (c) If the minor becomes combative or otherwise destructive in the detention room after law enforcement leaves, do not hesitate to contact dispatch and request law enforcement assistance.
- (d) DO NOT allow law enforcement to leave until additional staff has arrived if there are multiple minors in custody, or if there is one minor and the minor is of the opposite gender,

310.6 MANDATORY PAPERWORK AND ARREST REPORTS

- (a) Law enforcement must complete a Mother Lode Regional Juvenile Hall form prior to leaving the Probation Department.
- (b) Do not take custody of the minor unless this form has been completed and signed by the law enforcement officer.
- (c) Review the form and the probable cause section carefully and take note of the facts of the incident - who, what, when, where, why and how? If incomplete, do not hesitate to ask the officer to add more information.
- (d) If it appears the minor will be detained in juvenile hall, be certain to advise the officer they will need to provide their report the next morning to staff the case with the District Attorney.
- (e) Retain the original copy of the booking form and send the yellow copy with the arresting officer.

310.7 OFFICER SAFETY AND JUVENILE'S PERSONAL PROPERTY

- (a) For officer safety, ask the arresting officer if the minor was searched. Search the minor again and take his/her property if detention is warranted. This includes all piercings (e.g., ears, nose, tongue, belly, etc.) and other jewelry. Inventory the property, place the items in a plastic bag located in the booking room and label the bag with the minor's name.
- (b) Send the bag/items with the probation aide to the juvenile hall with the minor.

310.8 JUVENILE INTAKE PACKET AND CASE

- (a) Complete the green intake sheet and note the time you arrived at the Department.
- (b) The Detention Decision tool will be used as a guide in making the determination for detention. If the minor already exists in the case management system, complete

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the electronic version found in the template section. If the minor is not in the case management system, complete a paper Detention Decision.

310.9 OPTIONS AVAILABLE WHEN A MINOR IS IN CUSTODY

- (a) Release to parent/guardian
 - 1. Check identification upon arrival of parent/guardian.
 - 2. Explain why their son or daughter was arrested.
 - 3. Advise them they will be notified soon of the date and time to bring the minor into the office to speak with a probation officer.
 - 4. If the minor requires transportation home, a probation officer must be physically present in order to release the minor to his/her parent's custody. However, the probation officer may contact a probation aide or other probation employee to ride along. Officers shall always be accompanied by another employee when transporting a juvenile of the opposite sex after hours.
- (b) Release to parent/guardian under a home supervision agreement
 - 1. A home supervision agreement must be completed and signed by all parties. Each party receives a copy and the original remains with the department's paperwork. Remember this is a form of detention and all detention requirements and time limits apply.
- (c) Place in temporary foster home
 - 1. A list of foster homes can be located in the on-call bag. A foster home may be used in the event there is absolutely no parent/guardian, or caregiver identified or located, and detention is not warranted
- (d) Juvenile hall
 - 1. Upon completion of the detention and risk classification tool, and when detention has been decided, contact a probation aide to respond.
 - 2. Notify a parent of the detention decision as soon as possible.
 - 3. Complete the following paperwork for booking into juvenile hall (paperwork is located in the hanging metal file folders immediately to the left of the juvenile case files in the booking room).
 - (a) Nevada County Juvenile Hall Pre-booking health screening sheet;
 - (b) Nevada County Juvenile Hall Booking Sheet;
 - (c) Nevada County Juvenile Hall Authorization For Medical and/or Dental Care and Treatment (may be signed by the probation officer if the parent is unable or unwilling to respond); and

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- (d) Nevada County Carl F. Bryan Juvenile Hall Face Sheet.

310.10 MANDATORY DETENTION IN JUVENILE HALL

Those juveniles who have an active warrant or who have committed an offense under Section 707(b) of the Welfare and Institutions Code or used a firearm in the course of their offense shall be detained in Juvenile Hall.

310.11 WRITTEN PROMISE TO APPEAR

If the juvenile is 14 years or older and has been detained on an alleged felony offense, the juvenile shall not be released without signing a written promise to appear before the probation officer or juvenile court. The juvenile's parent, guardian or relative may also be required to sign a written promise to appear at the same place designated for the juvenile.

310.12 DETENTION ROOM BEDDING

- (a) Once the juvenile has left, and if the detention room was used and the minor sat or laid on the bed, remove all bedding from the mattress and pillow, place in a plastic bag and set outside the room.
- (b) Wipe down the mattress with Clorox wipes located in the booking room.
- (c) Place clean sheets and a pillow case (located in the closet to the left of the detention room) on the bed.

This is required after every minor has been detained in the room and has had contact with the bedding.

310.13 PROCESSING PAPERWORK AND CHITS

- (a) Complete a Tuolumne County Probation Department Change of Placement Transmittal Form (located next to the booking forms) and document your chrono in the "events" node in caseload explorer (cx).
- (b) If the minor is detained, attach the white copy of the Mother Lode Regional Juvenile Hall Form, the green sheet, and the Change of Placement Transmittal Form, along with the file, if there is one, on the Supervising Probation Officer or Intake Officer's desk or mail receipt box.
- (c) Document your time out for overtime request purposes.
- (d) Submit your request and attach a copy of your chrono of the event to the Juvenile Unit Division Manager.

310.14 JUVENILE ELECTRONIC MONITORING

Face sheets of juveniles participating in the Electronic Monitoring Program (EMP) can be located in a folder contained within the on-call bag. The supervising probation officer is responsible for

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ensuring juvenile schedules are inputted into the system and updated regularly to reflect the most current information.

Any on-call alerts will need to be cross-referenced and verified by using the on-call laptop or tablet to determine if the alerts are valid and require a follow-up response.

Any type of exclusion zone violations, strap tampers, failure to enter, or unauthorized leaves, contact the parent or guardian by telephone and ask to speak to the juvenile directly to ensure the juvenile is in the home as directed and in compliance with the terms and conditions of the EMP contract. If it is reported by the parent or guardian the juvenile has absconded from the home without permission, the probation officer will immediately contact dispatch to inform them of the circumstances. A violation of probation will be filed and a warrant requested for the minor's arrest on the next business day by the supervising probation officer should the minor's whereabouts remain unknown.

Any type of exclusion zone violations in which a victim is involved requires the on-call officer to contact the appropriate law enforcement jurisdiction and request that the minor be taken into custody and delivered to the Probation Department.

Document all conversations with the parent and/or minor and/or any and all attempts made to contact the family by telephone in the event of any of the above alerts. Should the parent or juvenile fail to respond to telephone calls, notify the supervising probation officer the following business day so the probation officer can conduct a follow-up contact with the juvenile and his/her family.

Temporary Custody of Juveniles

311.1 PURPOSE AND SCOPE

This policy provides guidelines consistent with the Juvenile Justice and Delinquency Prevention Act for juveniles taken into temporary custody by members of the Tuolumne County Probation Department (42 USC § 5633).

Guidance regarding contacting juveniles at schools or who may be victims is provided in the Child Abuse Policy.

311.1.1 DEFINITIONS

Definitions related to this policy include:

Juvenile non-offender - An abused, neglected, dependent or alien juvenile who may be legally held for his/her own safety or welfare. This also includes any juvenile who may have initially been contacted for an offense that would not subject an adult to arrest (e.g., fine-only offense) but was taken into custody for his/her protection or for purposes of reuniting the juvenile with a parent, guardian or other responsible person.

Juvenile offender - A juvenile 17 years of age or younger who is alleged to have committed an offense that would subject an adult to arrest (a non-status offense). It also includes an offense under Penal Code § 29610 for underage possession of a handgun or concealable firearm (28 CFR 31.303).

Non-secure custody - When a juvenile is held in the presence of an officer or other custody employee at all times and is not placed in a locked room, cell or behind any locked doors. Juveniles in non-secure custody may be handcuffed but not to a stationary or secure object. Personal supervision, through direct visual monitoring is maintained. Monitoring through electronic devices, such as video, does not replace direct visual observation (Welfare and Institutions Code § 207.1(d); 15 CCR 1150).

Safety checks - Direct, visual observation personally by member of this department performed at random intervals within time frames prescribed in this policy to provide for the health and welfare of juveniles who have been taken into custody.

Secure custody - When a juvenile offender is held in a locked room, a set of rooms or a cell. Secure custody also includes being physically secured to a stationary object (15 CCR 1146).

Sight and sound separation - Located or arranged to prevent physical, visual or auditory contact.

Status offender - A juvenile suspected of committing a criminal violation of the law that would not be a criminal violation but for the age of the offender. Examples may include running away, underage possession of tobacco, curfew violation or truancy. A juvenile in custody on a court order or warrant based upon a status offense is also a status offender. This includes the habitually disobedient or truant juvenile under Welfare and Institutions Code § 601 and any juvenile suspected of an offense that would not subject an adult to arrest (e.g., fine-only offense).

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311.2 POLICY

The Tuolumne County Probation Department is committed to releasing juveniles from temporary custody as soon as reasonably practicable and keeping juveniles safe while they are in temporary custody at the Tuolumne County Probation Department. Juveniles should be held in temporary custody only for as long as reasonably necessary for processing, transfer or release.

311.3 JUVENILES WHO SHOULD NOT BE HELD

Juveniles who exhibit any of the following conditions should not be held at the Tuolumne County Probation Department:

- (a) Unconscious
- (b) Seriously injured
- (c) A known suicide risk or obviously severely emotionally disturbed
- (d) Significantly intoxicated. A medical clearance shall be obtained by the arresting law enforcement officer prior to releasing a minor to the Probation Officer for those minors who are under the influence of drugs, alcohol or any other intoxicating substance to the extent that they are unable to care for themselves (15 CCR 1151).
- (e) Extremely violent or continuously violent

Officers taking custody of a juvenile who exhibits any of the above conditions should take reasonable steps to provide medical attention or mental health assistance and notify a supervisor of the situation (15 CCR 1142; 15 CCR 1151).

These juveniles should not be held at the Tuolumne County Probation Department unless they have been evaluated by a qualified medical and/or mental health professional (15 CCR 1142).

If the officer taking custody of the juvenile believes the juvenile may be a suicide risk, the juvenile shall be under continuous direct supervision until an evaluation is completed (15 CCR 1142).

311.3.1 EMERGENCY MEDICAL CARE OF JUVENILES IN CUSTODY

When emergency medical attention is required for a juvenile, medical assistance will be called immediately. A Division Manager or Chief Probation Officer shall be notified of the need for medical attention for the juvenile. Department members should administer first aid as applicable (15 CCR 1142).

311.3.2 SUICIDE PREVENTION OF JUVENILES IN CUSTODY

Department members should be alert to potential symptoms based upon exhibited behavior that may indicate the juvenile is a suicide risk. These symptoms may include depression, refusal to communicate, verbally threatening to kill him/herself or any unusual behavior which may indicate the juvenile may harm him/herself while in either secure or non-secure custody (15 CCR 1142).

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311.4 CUSTODY OF JUVENILES

Officers should take custody of a juvenile and temporarily hold the juvenile at the Tuolumne County Probation Department when there is no other lawful and practicable alternative to temporary custody. Refer to the Child Abuse Policy for additional information regarding detaining a juvenile that is suspected of being a victim.

Juveniles taken into custody shall be held in non-secure custody unless otherwise authorized by this policy.

Any juvenile taken into custody shall be released to the care of the juvenile's parent or other responsible adult identified by the parent or legal guardian or transferred to a juvenile custody facility or to other authority (e.g. Child Welfare Services) as soon as practicable and in no event shall a juvenile be held beyond six hours from the time of his/her entry into the Tuolumne County Probation Department (42 USC § 5633; Welfare and Institutions Code § 207.1(d)).

311.4.1 CUSTODY OF JUVENILE OFFENDERS

Juvenile offenders should be held in non-secure custody while at the Tuolumne County Probation Department unless another form of custody is authorized by this policy or is necessary due to exigent circumstances.

Generally, a juvenile offender may be taken into custody when authorized by a court order or when there is probable cause to believe the juvenile has committed an offense that would subject an adult to arrest (Welfare and Institutions Code § 625).

A juvenile offender who is 14 years of age or older and suspected of using a firearm in violation of Welfare and Institutions Code 625.3 shall be transported to a juvenile detention facility.

A juvenile offender suspected of committing murder or a sex offense that may subject a juvenile to criminal jurisdiction under Welfare and Institutions Code § 602(b), or a serious or violent felony shall be transported to a juvenile detention facility.

In all other cases when a juvenile is brought into the Department and booked, the probation officer taking custody of the juvenile offender may:

- (a) Release upon warning or citation.
- (b) Release to a parent or other responsible adult identified by the parent or legal guardian after processing at the Department.
- (c) Upon completion of the Detention and Risk Classification in which detention is indicated, transport the juvenile offender to a juvenile detention facility.
- (d) Transport to his/her home or to the place where the juvenile offender was taken into custody (Welfare and Institutions Code § 207.2).

In determining which disposition is appropriate, the investigating/intake officer or supervisor shall prefer the alternative which least restricts the juvenile's freedom of movement, provided that alternative is compatible with the best interests of the juvenile and the community (Welfare and Institutions Code § 626).

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Whenever a juvenile offender under the age of 14 is taken into custody, the officer should take reasonable steps to verify and document the child's ability to differentiate between right and wrong, particularly in relation to the alleged offense (Penal Code § 26).

311.5 ADVISEMENTS

Officers shall take immediate steps to notify the juvenile's parent, guardian or a responsible relative that the juvenile is in custody, the location where the juvenile is being held and the intended disposition (Welfare and Institutions Code § 627).

Whenever a juvenile is taken into temporary custody, he/she shall be given the *Miranda* rights advisement regardless of whether questioning is intended (Welfare and Institutions Code § 625).

Anytime a juvenile offender is placed in secure custody, he/she shall be informed of the purpose of the secure custody, the length of time the secure custody is expected to last and of the maximum six-hour limitation (Welfare and Institutions Code § 207.1(d)).

Juveniles taken into custody for an offense shall immediately be advised (or at least within one hour from being taken into custody, if possible) that they may make three telephone calls: one call completed to his/her parent or guardian; one to a responsible relative or his/her employer; and another call completed to an attorney. The calls shall be at no expense to the juvenile when completed to telephone numbers within the local calling area. Juveniles should be asked whether they are a caregiver and provided two more phone calls in the same manner as provided to adults in the Temporary Holding Facility Policy (Welfare and Institutions Code § 627; Penal Code § 851.5).

311.6 JUVENILE CUSTODY LOGS

Any time a juvenile is held in custody at the Department, the custody shall be promptly and properly documented in the juvenile custody log, including:

- (a) Identifying information about the juvenile being held.
- (b) Date and time of arrival and release from the Tuolumne County Probation Department (15 CCR 1150).
- (c) Division Manager or Chief Probation Officer notification and approval to temporarily hold the juvenile.
- (d) Any charges for which the juvenile is being held and classification of the juvenile as a juvenile offender, status offender or non-offender.
- (e) Any changes in status.
- (f) Any medical and other screening requested and completed (15 CCR 1142).
- (g) Circumstances that justify any secure custody (Welfare and Institutions Code § 207.1(d); 15 CCR 1145).

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311.7 NO-CONTACT REQUIREMENTS

Sight and sound separation shall be maintained between all juveniles and adults while in custody of the Department (42 USC § 5633; Welfare and Institutions Code § 207.1(d); Welfare and Institutions Code § 208; 15 CCR 1144). There should also be sight and sound separation between non-offenders and juvenile and status offenders.

In situations where brief or accidental contact may occur (e.g., court appearances), a member of the Tuolumne County Probation Department (trained in the supervision of persons in custody) shall maintain a constant, immediate, side-by-side presence with the juvenile to minimize any contact. If inadvertent or accidental contact does occur, reasonable efforts shall be taken to end the contact (15 CCR 1144).

311.8 TEMPORARY CUSTODY REQUIREMENTS

Members and supervisors assigned to monitor or process any juvenile at the Tuolumne County Probation Department shall ensure the following:

- (a) A Division Manager or Chief Probation Officer shall be notified if it is anticipated that a juvenile may need to remain at the Tuolumne County Probation Department more than four hours. This will enable the Division Manager to ensure no juvenile is held at the Tuolumne County Probation Department more than six hours.
- (b) A staff member of the same sex shall supervise personal hygiene activities and care, such as changing clothing or using the restroom, without direct observation to allow for privacy.
- (c) Personal safety checks and significant incidents/activities shall be noted in the case event log.
- (d) There shall be no viewing devices, such as peep holes or mirrors, of which the juvenile is not aware. Therefore, an employee should inform a juvenile under his/her care that the juvenile will be monitored at all times, unless he/she is using the toilet. This does not apply to surreptitious and legally obtained recorded interrogations.
- (e) Juveniles shall have reasonable access to toilets and wash basins (15 CCR 1143).
- (f) Food shall be provided if a juvenile has not eaten within the past four hours or is otherwise in need of nourishment, including any special diet required for the health of the juvenile (15 CCR 1143).
- (g) Juveniles shall have reasonable access to a drinking fountain or water (15 CCR 1143).
- (h) Juveniles shall have reasonable opportunities to stand and stretch, particularly if handcuffed or restrained in any way.
- (i) Juveniles shall have privacy during family, guardian and/or lawyer visits (15 CCR 1143).

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- (j) Juveniles shall be permitted to remain in their personal clothing unless the clothing is taken as evidence or is otherwise unsuitable or inadequate for continued wear while in custody (15 CCR 1143).
- (k) Blankets shall be provided as reasonably necessary (15 CCR 1143).
- (l) Adequate shelter, heat, light and ventilation should be provided without compromising security or enabling escape.
- (m) Juveniles shall have adequate furnishings, including suitable chairs or benches.
- (n) Juveniles shall have the right to the same number of telephone calls as an adult in custody.
- (o) No discipline may be administered to any juvenile, nor may juveniles be subjected to corporal or unusual punishment, humiliation or mental abuse (15 CCR 1142).

311.9 USE OF RESTRAINT DEVICES

Juvenile offenders may be handcuffed in accordance with the Handcuffing and Restraints Policy. A juvenile offender may be handcuffed at the Tuolumne County Probation Department when the juvenile presents a heightened risk. However, non-offenders and status offenders should not be handcuffed unless they are combative or threatening (15 CCR 1142).

Other restraints shall only be used after less restrictive measures have failed and with the approval of a Division Manager or Chief Probation Officer. Restraints shall only be used so long as it reasonably appears necessary for the juvenile's protection or the protection of others (15 CCR 1142).

Juveniles in restraints shall be kept away from other unrestrained juveniles or monitored in such a way as to protect the juvenile from abuse (15 CCR 1142).

311.10 PERSONAL PROPERTY

The officer taking custody of a juvenile offender or status offender at the Tuolumne County Probation Department shall ensure a thorough search of the juvenile's property is made and all property is removed from the juvenile, especially those items that could compromise safety, such as pens, pencils and belts.

The personal property of a juvenile should be placed in a property bag. The property should be inventoried in the juvenile's presence and sealed into the bag. The property should be kept in a monitored or secure location until the juvenile is released from the custody of the Tuolumne County Probation Department. If a juvenile is transported to a juvenile detention facility, the property should be released to a parent or legal guardian or sent with the juvenile to the facility.

311.11 SECURE CUSTODY

Only juvenile offenders 14 years of age or older may be placed in secure custody (Welfare and Institutions Code § 207; 15 CCR 1145).

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Secure custody should only be used for juvenile offenders when there is a reasonable belief that the juvenile is a serious risk of harm to him/herself or others. Factors to be considered when determining if the juvenile offender presents a serious security risk to him/herself or others include the following (15 CCR 1145):

- (a) Age, maturity and delinquent history
- (b) Severity of offense for which the juvenile was taken into custody
- (c) The juvenile offender's behavior
- (d) Availability of staff to provide adequate supervision or protection of the juvenile offender
- (e) Age, type and number of other juveniles in custody at the Department

Members of this department shall not use secure custody for convenience when non-secure custody is, or later becomes, a reasonable option (15 CCR 1145).

When practicable and when no locked enclosure is available, handcuffing one hand of a juvenile offender to a fixed object while otherwise maintaining the juvenile in non-secure custody should be considered as the method of secure custody. An employee must be present at all times to ensure the juvenile's safety while secured to a stationary object (15 CCR 1148).

Juveniles shall not be secured to a stationary object for more than 60 minutes. Supervisor approval is required to secure a juvenile to a stationary object for longer than 60 minutes and every 30 minutes thereafter (15 CCR 1148). Supervisor approval should be documented.

The decision for securing a minor to a stationary object for longer than 60 minutes and every 30 minutes thereafter shall be based upon the best interests of the juvenile offender (15 CCR 1148).

311.12 INTERVIEWING OR INTERROGATING JUVENILE SUSPECTS

No interview or interrogation of a juvenile should occur unless the juvenile has the apparent capacity to consent, and does consent to an interview or interrogation.

311.13 RELEASE OF INFORMATION CONCERNING JUVENILES

Court decisions and legislation have combined to carefully specify situations in which information may be given out or exchanged when a case involves a juvenile. Members of this department shall not divulge any information regarding juveniles unless they are certain of the legal authority to do so.

A copy of the current policy of the juvenile court concerning authorized release of information and appropriate acknowledgment forms shall be kept with copies of this procedure in the Tuolumne County Probation Department Policy Manual. Such releases are authorized by Welfare and Institutions Code § 827.

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Welfare and Institutions Code § 828 authorizes the release of certain information to other agencies. It shall be the responsibility of the Senior Legal Clerk and the appropriate Court Intake Unit supervisors to ensure that personnel of those bureaus act within legal guidelines.

Adult Abuse

312.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidelines for the investigation and reporting of suspected abuse of certain adults who may be more vulnerable than others. This policy also addresses mandatory notification for Tuolumne County Probation Department employees as required by law.

312.1.1 DEFINITIONS

Definitions related to this policy include:

Adult abuse - Any offense or attempted offense involving violence or neglect of an adult victim when committed by a person responsible for the adult's care, or any other act that would mandate reporting or notification to a social service agency or law enforcement (Penal Code § 368).

312.2 POLICY

The Tuolumne County Probation Department will report all reported incidents of alleged adult abuse and ensure proper reporting and notification as required by law.

312.3 MANDATORY NOTIFICATION

Members of the Tuolumne County Probation Department shall notify the local office of the Tuolumne County Department of Social Services Adult Protective Services (APS) agency when they reasonably suspect, have observed or have knowledge of an incident that reasonably appears to be abuse of an elder (age 65 or older) or dependent adult, or are told by an elder or dependent adult that he/she has experienced abuse (Welfare and Institutions Code § 15630(b)).

Notification shall be made by telephone as soon as practicable and a written report shall be provided within two working days as provided in Welfare and Institutions Code § 15630(b)(c)).

Officers reporting adult abuse shall complete a [State of California form SOC 341 \(Report of Suspected Dependent Adult/Elder Abuse\)](#) and submit to the Tuolumne County Department of Social Services within the mandated timeframe stated above.

A dependent adult is an individual regardless of whether the individual lives independently, between 18 and 64 years of age who has physical or mental limitations that restrict his/her ability to carry out normal activities or to protect his/her rights including, but not limited to, persons who have physical or developmental disabilities or whose physical or mental abilities have diminished because of age. This also includes those admitted as inpatients to a 24-hour health facility, as defined in state law (Welfare and Institutions Code § 15610.23).

For purposes of notification, abuse is physical abuse, abandonment, abduction, isolation, financial abuse or neglect. Physical abuse includes any assault or sex crime (Welfare and Institutions Code § 15610.63). Financial abuse includes taking personal or real property by undue influence or intent to defraud (Welfare and Institutions Code § 15610.30).

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312.3.1 NOTIFICATION PROCEDURE

Notification should include the following information, if known (Welfare and Institutions Code § 15630(e)):

- (a) The name of the person making the report.
- (b) The name and age of the elder or dependent adult.
- (c) The present location of the elder or dependent adult.
- (d) The names and addresses of family members or any other adult responsible for the care of the elder or dependent adult.
- (e) The nature and extent of the condition of the elder or dependent adult.
- (f) The date of incident.
- (g) Any other information, including information that led the person to suspect elder or dependent adult abuse.

Discriminatory Harassment

313.1 PURPOSE AND SCOPE

This policy is intended to prevent department employees from being subjected to discriminatory harassment, including sexual harassment and retaliation. Nothing in this policy is intended to create a legal or employment right or duty that is not created by law.

Employees are referred to the [County of Tuolumne](#) policies for further guidance regarding countywide harassment policies.

313.2 POLICY

The Tuolumne County Probation Department is an equal opportunity employer and is committed to creating and maintaining a work environment that is free of all forms of discriminatory harassment, including sexual harassment and retaliation (Government Code § 12940(k); 2 CCR 11023). The Department will not tolerate discrimination against an employee in hiring, promotion, discharge, compensation, fringe benefits and other privileges of employment. The Department will take preventive and corrective action to address any behavior that violates this policy or the rights it is designed to protect.

The nondiscrimination policies of the Department and the County of Tuolumne may be more comprehensive than state or federal law. Conduct that violates this policy may not violate state or federal law but still could subject an employee to discipline.

313.3 DEFINITIONS

Definitions related to this policy include:

313.3.1 DISCRIMINATION

The Department prohibits all forms of discrimination, including any employment-related action by an employee that adversely affects an applicant or employee and is based on the actual or perceived race, ethnicity, national origin, religion, sex, sexual orientation, gender identity or expression, age, disability, pregnancy, genetic information, veteran status, marital status and other classifications protected by law.

Discriminatory harassment, including sexual harassment, is verbal or physical conduct that demeans or shows hostility or aversion toward an individual based upon that individual's protected class. It has the effect of interfering with an individual's work performance or creating a hostile or abusive work environment.

Conduct that may, under certain circumstances, constitute discriminatory harassment, can include making derogatory comments, crude and offensive statements or remarks; making slurs or off-color jokes, stereotyping; engaging in threatening acts; making indecent gestures, pictures, cartoons, posters or material; making inappropriate physical contact; or using written material or department equipment and/or systems to transmit or receive offensive material, statements or

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pictures. Such conduct is contrary to department policy and to a work environment that is free of discrimination.

313.3.2 SEXUAL HARASSMENT

The Department prohibits all forms of discrimination and discriminatory harassment, including sexual harassment. It is unlawful to harass an applicant or an employee because of that person's sex.

Sexual harassment includes, but is not limited to, unwelcome sexual advances, requests for sexual favors or other verbal, visual or physical conduct of a sexual nature when:

- (a) Submission to such conduct is made either explicitly or implicitly a term or condition of employment, position or compensation.
- (b) Submission to, or rejection of, such conduct is used as the basis for any employment decisions affecting the employee.
- (c) Such conduct has the purpose or effect of substantially interfering with an employee's work performance or creating an intimidating, hostile, or offensive work environment.

313.3.3 ADDITIONAL CONSIDERATIONS

Discrimination and discriminatory harassment do not include actions that are in accordance with established rules, principles or standards, including:

- (a) Acts or omission of acts based solely upon bona fide occupational qualifications under the Equal Employment Opportunity Commission (EEOC) and the California Fair Employment and Housing Council guidelines.
- (b) Bona fide requests or demands by a supervisor that an employee improve his/her work quality or output, that the employee report to the job site on time, that the employee comply with County or department rules or regulations, or any other appropriate work-related communication between supervisor and employee.

313.3.4 RETALIATION

Retaliation is treating a person differently or engaging in acts of reprisal or intimidation against the person because he/she has engaged in protected activity, filed a charge of discrimination, participated in an investigation or opposed a discriminatory practice. Retaliation will not be tolerated.

313.4 RESPONSIBILITIES

This policy applies to all department personnel. All employees shall follow the intent of these guidelines in a manner that reflects department policy, professional law enforcement standards and the best interest of the Department and its mission.

Employees are encouraged to promptly report any discriminatory, retaliatory or harassing conduct or known violations of this policy to a supervisor. Any employee who is not comfortable with reporting violations of this policy to his/her immediate supervisor may bypass the chain of command and make the report to a higher-ranking supervisor or manager. Complaints may also

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be filed with the Chief Probation Officer, the Human Resources Risk Manager or the Presiding Judge.

Any employee who believes, in good faith, that he/she has been discriminated against, harassed or subjected to retaliation, or who has observed harassment or discrimination, is encouraged to promptly report such conduct in accordance with the procedures set forth in this policy.

Supervisors and managers receiving information regarding alleged violations of this policy shall review the complaint with Human Resources Manager to determine if there is any basis for the allegation.

313.4.1 SUPERVISOR/MANAGER RESPONSIBILITIES

The responsibilities of each supervisor and manager shall include, but are not limited to:

- (a) Continually monitoring the work environment and striving to ensure that it is free from all types of unlawful discrimination, including harassment or retaliation.
- (b) Taking prompt, appropriate action within their work units to avoid and minimize the incidence of any form of discrimination, harassment or retaliation.
- (c) Ensuring that his/her subordinates understand their responsibilities under this policy.
- (d) Ensuring that employees who make complaints or who oppose any unlawful employment practices are protected from retaliation and that such matters are kept confidential to the extent possible.
- (e) Making a timely determination regarding the substance of any allegation based upon all available facts.
- (f) Notifying the Chief Probation Officer or Human Resources Manager in writing of the circumstances surrounding any reported allegations or observed acts of discrimination, harassment or retaliation no later than the next business day.

313.4.2 SUPERVISOR'S ROLE

Because of differences in individual values, supervisors and managers may find it difficult to recognize that their behavior or the behavior of others is discriminatory, harassing or retaliatory. Supervisors and managers shall be aware of the following considerations:

- (a) Behavior of supervisors and managers should represent the values of the Department and professional law enforcement standards.
- (b) False or mistaken accusations of discrimination, harassment or retaliation can have negative effects on the careers of innocent employees.

Nothing in this section shall be construed to prevent supervisors or managers from discharging supervisory or management responsibilities, such as determining duty assignments, evaluating or counseling employees or issuing discipline, in a manner that is consistent with established procedures.

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313.4.3 QUESTIONS OR CLARIFICATION

Employees with questions regarding what constitutes discrimination, sexual harassment or retaliation are encouraged to contact a supervisor, manager, the Chief Probation Officer, the Human Resources Manager, or the California Department of Fair Employment and Housing for further information, direction or clarification.

313.5 INVESTIGATION OF COMPLAINTS

Various methods of resolution exist. During the pendency of any such investigation, the supervisor of the involved employee should take prompt and reasonable steps to mitigate or eliminate any continuing abusive or hostile work environment. It is the policy of the Department that all complaints of discrimination, retaliation or harassment shall be fully documented and promptly and thoroughly investigated.

313.5.1 SUPERVISORY RESOLUTION

Employees who believe they are experiencing discrimination, harassment or retaliation should be encouraged to inform the individual that his/her behavior is unwelcome, offensive, unprofessional or inappropriate. However, if the employee feels uncomfortable or threatened or has difficulty expressing his/her concern, or if this does not resolve the concern, assistance should be sought from a supervisor or manager who is a rank higher than the alleged transgressor.

313.5.2 FORMAL INVESTIGATION

If the complaint cannot be satisfactorily resolved through the process described above, a formal investigation will be conducted in conjunction with the Human Resources Manager or authorized designee.

The person assigned to investigate the complaint will have full authority to investigate all aspects of the complaint. Investigative authority includes access to records and the cooperation of any employees involved. No influence will be used to suppress any complaint and no employee will be subject to retaliation or reprisal for filing a complaint, encouraging others to file a complaint or for offering testimony or evidence in any investigation.

Formal investigation of the complaint will be confidential to the extent possible and will include, but is not limited to, details of the specific incident, frequency and dates of occurrences and names of any witnesses. Witnesses will be advised regarding the prohibition against retaliation, and that a disciplinary process, up to and including termination, may result if retaliation occurs.

Employees who believe they have been discriminated against, harassed or retaliated against because of their protected status, are encouraged to follow the chain of command but may also file a complaint directly with the Chief Probation Officer or Human Resources.

313.5.3 ALTERNATIVE COMPLAINT PROCESS

No provision of this policy shall be construed to prevent any employee from seeking legal redress outside the Department. Employees who believe that they have been harassed, discriminated or retaliated against are entitled to bring complaints of employment discrimination to federal, state and/or local agencies responsible for investigating such allegations. Specific time limitations apply

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to the filing of such charges. Employees are advised that proceeding with complaints under the provisions of this policy does not in any way affect those filing requirements.

313.6 DOCUMENTATION OF COMPLAINTS

All complaints or allegations shall be thoroughly documented on forms and in a manner designated by the Chief Probation Officer. The outcome of all reports shall be:

- Approved by the Chief Probation Officer or Human Resources Manager depending on the ranks of the involved parties.
- Maintained in accordance with the established records retention schedule.

313.6.1 NOTIFICATION OF DISPOSITION

The complainant and/or victim will be notified in writing of the disposition of the investigation and the actions taken to remedy or address the circumstances giving rise to the complaint.

313.7 TRAINING

All new employees shall be provided with a copy of this policy as part of their orientation. The policy shall be reviewed with each new employee. The employee shall certify by signing the prescribed form that he/she has been advised of this policy, is aware of and understands its contents and agrees to abide by its provisions during his/her term with the Department.

All employees shall receive annual training on the requirements of this policy and shall certify by signing the prescribed form that they have reviewed the policy, understand its contents and agree that they will continue to abide by its provisions.

313.7.1 SUPERVISOR TRAINING

All supervisors shall receive specific training and education regarding sexual harassment, prevention of abusive conduct and harassment based on gender identity, gender expression and sexual orientation within six months of assuming a supervisory position. Refresher training shall be provided every two years thereafter (Government Code § 12950.1; 2 CCR 11024).

313.7.2 TRAINING RECORDS

The Training Manager shall be responsible for maintaining records of all discriminatory harassment training provided to employees. Records shall be retained in accordance with established records retention schedules and for a minimum of two years (2 CCR 11024).

313.8 WORKING CONDITIONS

The Human Resources Manager or the authorized designee should be responsible for reviewing facility design and working conditions for discriminatory practices. This person should collaborate with other County employees who are similarly tasked (2 CCR 11034).

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313.9 REQUIRED POSTERS

The Department shall display the required posters regarding discrimination, harassment and transgender rights in a prominent and accessible location for employees (Government Code § 12950).

Child Abuse

314.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidelines for the investigation of suspected child abuse. This policy also addresses when Tuolumne County Probation Department employees are required to notify the county Child Welfare Services (CWS) of suspected child abuse.

314.1.1 DEFINITIONS

Definitions related to this policy include:

Child - Unless otherwise specified by a cited statute, a child is any person under the age of 18 years.

Child abuse - Any offense or attempted offense involving violence or neglect with a child victim when committed by a person responsible for the child's care or any other act that would mandate notification to a social service agency or law enforcement (Penal Code § 11165.9; Penal Code § 11166).

314.2 POLICY

The Tuolumne County Probation Department will report all incidents or suspected alleged child abuse to CWS and/or the appropriate law enforcement agency as required by law.

314.3 MANDATORY NOTIFICATION

The child protection agency shall be notified when (Penal Code § 11166):

- (a) There is a known or suspected instance of child abuse or neglect reported, which is alleged to have occurred as a result of the action of a person responsible for the child's welfare, or
- (b) A person responsible for the child's welfare fails to adequately protect the child from abuse when the person knew or reasonably should have known that the child was in danger of abuse.

Tuolumne County CWS or the law enforcement agency responsible for investigating suspected child abuse shall be notified in all instances of known or suspected child abuse or neglect reported to this department.

When the abuse or neglect occurs at a licensed facility or is alleged to have resulted from the actions of a person who is required to have a state license (e.g., foster homes, group homes, day care), notification shall also be made to the California Department of Social Services Community Care Licensing Unit or other applicable licensing authority (Penal Code 11166.1; Penal Code 11166.2).

314.3.1 NOTIFICATION PROCEDURE

Notification should occur as follows (Penal Code § 11166):

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- (a) If the child has been the victim of physical or sexual abuse requiring a medical examination, the officer should immediately contact the law enforcement agency in the appropriate jurisdiction and remain with victim until law enforcement/CWS personnel arrive.
- (b) Notification shall be made immediately, or as soon as practicable, by telephone, fax or electronic transmission.
- (c) A written follow-up report should be forwarded within 36 hours of receiving the information concerning the incident using the Suspected Child Abuse Reporting (SCAR) form. The SCAR can be located at the forms counter and online through the Tuolumne County Protective Services website.

314.4 PROTECTIVE CUSTODY

Direction shall be obtained from a supervisor or manager should an officer feel the need to place a child into protective custody. At no time shall an officer leave a child in immediate danger.

314.5 INTERVIEWS

314.5.1 INTERVIEWS AT A SCHOOL

Interviews conducted at school regarding suspected child abuse shall be conducted by CWS or law enforcement.

314.6 DRUG-ENDANGERED CHILDREN

A coordinated response by law enforcement and social services agencies is appropriate to meet the immediate and longer-term medical and safety needs of children exposed to the manufacturing, trafficking or use of narcotics. Refer to the Drug-Endangered Child Memorandum of Understanding and Protocol.

314.7 STATE MANDATES AND OTHER RELEVANT LAWS

California requires or permits the following:

314.7.1 RELEASE OF REPORTS

Information related to incidents of child abuse or suspected child abuse shall be confidential and may only be disclosed pursuant to state law and the Release of Records and Information Policy (Welfare and Institutions Code § 827, Penal Code §841.5; Penal Code § 11167.5).

Standards of Conduct

315.1 PURPOSE AND SCOPE

This policy establishes standards of conduct that are consistent with the values and mission of the Tuolumne County Probation Department and are expected of all department employees. The standards contained in this policy are not intended to be an exhaustive list of requirements and prohibitions but they do identify many of the important matters concerning conduct. In addition to the provisions of this policy, employees are subject to all other provisions contained in this manual, as well as any additional guidance on conduct that may be disseminated by this department or an employee's supervisors.

315.2 POLICY

The continued employment or appointment of every employee of the Tuolumne County Probation Department shall be based on conduct that reasonably conforms to the guidelines set forth herein. Failure to meet the guidelines set forth in this policy, whether on- or off-duty, may be cause for disciplinary action.

315.3 DIRECTIVES AND ORDERS

Employees shall comply with lawful directives and orders from any department supervisor or person in a position of authority, absent a reasonable and bona fide justification.

315.3.1 UNLAWFUL OR CONFLICTING ORDERS

Supervisors shall not knowingly issue orders or directives that, if carried out, would result in a violation of any law or department policy. Supervisors should not issue orders that conflict with any previous order without making reasonable clarification that the new order is intended to countermand the earlier order.

No employee is required to obey any order that appears to be in direct conflict with any federal law, state law or local ordinance. Following a known unlawful order is not a defense and does not relieve the employee from criminal or civil prosecution or administrative discipline. If the legality of an order is in doubt, the affected employee shall ask the issuing supervisor to clarify the order or shall confer with a higher authority. The responsibility for refusal to obey rests with the employee, who shall subsequently be required to justify the refusal.

Unless it would jeopardize the safety of any individual, employee who are presented with a lawful order that is in conflict with a previous lawful order, department policy or other directive shall respectfully inform the issuing supervisor of the conflict. The issuing supervisor is responsible for either resolving the conflict or clarifying that the lawful order is intended to countermand the previous lawful order or directive, in which case the employee is obliged to comply. Employees who are compelled to follow a conflicting lawful order after having given the issuing supervisor the opportunity to correct the conflict, will not be held accountable for disobedience of the lawful order or directive that was initially issued.

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The person countermanding the original order shall notify, in writing, the person issuing the original order, indicating the action taken and the reason.

315.3.2 SUPERVISOR RESPONSIBILITIES

Supervisors and managers are required to follow all policies and procedures and may be subject to discipline for:

- (a) Failure to be reasonably aware of the performance of their subordinates or to provide appropriate guidance and control.
- (b) Failure to promptly and fully report any known misconduct of a employee to his/her immediate supervisor or to document such misconduct appropriately or as required by policy.
- (c) Directing a subordinate to violate a policy or directive, acquiesce to such a violation, or are indifferent to any such violation by a subordinate.
- (d) The unequal or disparate exercise of authority on the part of a supervisor toward any employee for malicious or other improper purpose.

315.4 GENERAL STANDARDS

Employees shall conduct themselves, whether on- or off-duty, in accordance with the United States and California Constitutions and all applicable laws, ordinances and rules enacted or established pursuant to legal authority.

Employees shall familiarize themselves with policies and procedures and are responsible for compliance with each. Employees should seek clarification and guidance from supervisors in the event of any perceived ambiguity or uncertainty.

Discipline may be initiated for any good cause. It is not mandatory that a specific policy or rule violation be cited to sustain discipline. This policy is not intended to cover every possible type of misconduct.

315.5 CAUSES FOR DISCIPLINE

The following are illustrative of causes for disciplinary action. This list is not intended to cover every possible type of misconduct and does not preclude the recommendation of disciplinary action for violation of other rules, standards, ethics and specific action or inaction that is detrimental to efficient department service:

315.5.1 LAWS, RULES AND ORDERS

- (a) Violation of, or ordering or instructing a subordinate to violate any policy, procedure, rule, order, directive, requirement or failure to follow instructions contained in department or County manuals.
- (b) Disobedience of any legal directive or order issued by any department employee of a higher rank.
- (c) Violation of federal, state, local or administrative laws, rules or regulations.

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315.5.2 ETHICS

- (a) Using or disclosing one's status as a employee of the Tuolumne County Probation Department in any way that could reasonably be perceived as an attempt to gain influence or authority for non-department business or activity.
- (b) The wrongful or unlawful exercise of authority on the part of any employee for malicious purpose, personal gain, willful deceit or any other improper purpose.
- (c) The receipt or acceptance of a reward, fee or gift from any person for service incident to the performance of the employee's duties (lawful subpoena fees and authorized work permits excepted).
- (d) Acceptance of fees, gifts or money contrary to the rules of this department and/or laws of the state.
- (e) Offer or acceptance of a bribe or gratuity.
- (f) Misappropriation or misuse of public funds, property, personnel or services.
- (g) Any other failure to abide by the standards of ethical conduct.

315.5.3 DISCRIMINATION, OPPRESSION OR FAVORITISM

Discriminating against, oppressing or providing favoritism to any person because of age, race, color, creed, religion, sex, sexual orientation, gender identity or expression, national origin, ancestry, marital status, physical or mental disability, medical condition or other classification protected by law, or intentionally denying or impeding another in the exercise or enjoyment of any right, privilege, power or immunity, knowing the conduct is unlawful.

315.5.4 RELATIONSHIPS

- (a) Unwelcome solicitation of a personal or sexual relationship while on-duty or through the use of one's official capacity.
- (b) Engaging in on-duty sexual activity including, but not limited to, sexual intercourse, excessive displays of public affection or other sexual contact.
- (c) Establishing or maintaining an inappropriate personal or financial relationship, as a result of an investigation, with a known victim, witness, suspect or defendant while a case is being investigated or prosecuted, or as a direct result of any official contact.
- (d) Associating with or joining a criminal gang, organized crime and/or criminal syndicate when the employee knows or reasonably should know of the criminal nature of the organization. This includes any organization involved in a definable criminal activity or enterprise, except as specifically directed and authorized by this department.
- (e) Associating on a personal, rather than official basis with persons who demonstrate recurring involvement in serious violations of state or federal laws after the employee knows, or reasonably should know of such criminal activities, except as specifically directed and authorized by this department.

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315.5.5 ATTENDANCE

- (a) Leaving the job to which the employee is assigned during duty hours without reasonable excuse and proper permission and approval.
- (b) Unexcused or unauthorized absence or tardiness.
- (c) Excessive absenteeism or abuse of leave privileges.
- (d) Failure to report to work or to place of assignment at time specified and fully prepared to perform duties without reasonable excuse.

315.5.6 UNAUTHORIZED ACCESS, DISCLOSURE OR USE

- (a) Unauthorized and inappropriate intentional release of confidential or protected information, materials, data, forms or reports obtained as a result of the employee's position with this department.
 - 1. Employees of this department shall not disclose the name, address or image of any victim of human trafficking except as authorized by law (Penal Code § 293).
- (b) Disclosing to any unauthorized person any active investigation information.
- (c) The use of any information, photograph, video or other recording obtained or accessed as a result of employment or appointment to this department for personal or financial gain or without the express authorization of the Chief Probation Officer or the authorized designee.
- (d) Loaning, selling, allowing unauthorized use, giving away or appropriating any Tuolumne County Probation Department badge, uniform, identification card or department property for personal use, personal gain or any other improper or unauthorized use or purpose.
- (e) Using department resources in association with any portion of an independent civil action. These resources include, but are not limited to, personnel, vehicles, equipment and non-subpoenaed records.

315.5.7 EFFICIENCY

- (a) Neglect of duty.
- (b) Unsatisfactory work performance including, but not limited to, failure, incompetence, inefficiency or delay in performing and/or carrying out proper orders, work assignments or the instructions of supervisors without a reasonable and bona fide excuse.
- (c) Concealing, attempting to conceal, removing or destroying defective or incompetent work.
- (d) Unauthorized sleeping during on-duty time or assignments.
- (e) Failure to notify the Department by the next business day of any change in residence address, contact telephone numbers or marital status.

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315.5.8 PERFORMANCE

- (a) Failure to disclose or misrepresenting material facts, or making any false or misleading statement on any application, examination form, or other official document, report or form, or during the course of any work-related investigation.
- (b) The falsification of any work-related records, making misleading entries or statements with the intent to deceive or the willful and unauthorized removal, alteration, destruction and/or mutilation of any department record, public record, book, paper or document.
- (c) Failure to participate in, or giving false or misleading statements, or misrepresenting or omitting material information to a supervisor or other person in a position of authority, in connection with any investigation or in the reporting of any department-related business.
- (d) Being untruthful or knowingly making false, misleading or malicious statements that are reasonably calculated to harm the reputation, authority or official standing of this department or its employees.
- (e) Disparaging remarks or conduct concerning duly constituted authority to the extent that such conduct disrupts the efficiency of this department or subverts the good order, efficiency and discipline of this department or that would tend to discredit any of its members.
- (f) Unlawful gambling or unlawful betting at any time or any place. Legal gambling or betting under any of the following conditions:
 - 1. While on department premises.
 - 2. At any work site, while on-duty or while in uniform, or while using any department equipment or system.
 - 3. Gambling activity undertaken as part of an officer official duties and with the express knowledge and permission of a direct supervisor is exempt from this prohibition.
- (g) Improper political activity including:
 - 1. Unauthorized attendance while on-duty at official legislative or political sessions.
 - 2. Solicitations, speeches or distribution of campaign literature for or against any political candidate or position while on-duty or, on department property.
- (h) Engaging in political activities during assigned working hours.
- (i) Any act on- or off-duty that brings discredit to this department.

315.5.9 CONDUCT

- (a) Failure of any employee to promptly and fully report activities on his/her part or the part of any other member where such activities resulted in contact with any other law enforcement agency or that may result in criminal prosecution or discipline under this policy.

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- (b) Unreasonable and unwarranted force to a person encountered or a person under arrest.
- (c) Exceeding lawful peace officer powers by unreasonable, unlawful or excessive conduct.
- (d) Unauthorized or unlawful fighting, threatening or attempting to inflict unlawful bodily harm on another.
- (e) Engaging in horseplay that reasonably could result in injury or property damage.
- (f) Discourteous, disrespectful or discriminatory treatment of any employee of the public or any employee of this department or the County.
- (g) Use of obscene, indecent, profane or derogatory language while on-duty or in uniform.
- (h) Criminal, dishonest, or disgraceful conduct, whether on- or off-duty, that adversely affects the employee's relationship with this department.
- (i) Unauthorized possession of, loss of, or damage to department property or the property of others, or endangering it through carelessness or maliciousness.
- (j) Attempted or actual theft of department property; misappropriation or misuse of public funds, property, personnel or the services or property of others; unauthorized removal or possession of department property or the property of another person.
- (k) Activity that is incompatible with a member's conditions of employment or appointment as established by law or that violates a provision of any memorandum of understanding or contract to include fraud in securing the appointment or hire.
- (l) Initiating any civil action for recovery of any damages or injuries incurred in the course and scope of employment or appointment without first notifying the Chief Probation Officer of such action.
- (m) Any other on- or off-duty conduct which any employee knows or reasonably should know is unbecoming a member of this department, is contrary to good order, efficiency or morale, or tends to reflect unfavorably upon this department or its members.

315.5.10 SAFETY

- (a) Failure to observe or violating department safety standards or safe working practices.
- (b) Failure to maintain current licenses or certifications required for the assignment or position (e.g., driver license, first aid).
- (c) Failure to maintain good physical condition sufficient to adequately and safely perform law enforcement duties.
- (d) Unsafe firearm or other dangerous weapon handling to include loading or unloading firearms in an unsafe manner, either on- or off- duty.
- (e) Carrying, while on the premises of the work place, any firearm or other lethal weapon that is not authorized by the employee's appointing authority.
- (f) Unsafe or improper driving habits or actions in the course of employment or appointment.

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- (g) Any personal action contributing to a preventable traffic collision.
- (h) Concealing or knowingly failing to report any on-the-job or work-related accident or injury as soon as practicable but by the next business day.

315.5.11 INTOXICANTS

- (a) Reporting for work or being at work while intoxicated or when the employee's ability to perform assigned duties is impaired due to the use of alcohol, medication or drugs, whether legal, prescribed or illegal.
- (b) Possession or use of alcohol at any work site or while on-duty.
- (c) Unauthorized possession, use of, or attempting to bring a controlled substance, illegal drug or non-prescribed medication to any work site.

Incident Report Preparation

316.1 PURPOSE AND SCOPE

Report preparation is a major part of each officer's job. The purpose of reports is to document sufficient information to refresh the officer's memory and to provide sufficient information for follow-up investigation and successful prosecution. Report writing is the subject of substantial formalized training and on-the-job training.

316.1.1 REPORT PREPARATION

Employees should ensure that reports are sufficiently detailed for their purpose and free from errors prior to submission. It is the responsibility of the assigned employee to complete and submit an arrest and/or incident report before going off-duty unless permission to hold the report has been approved by a Division Manager.

Handwritten reports are generally discouraged. However, if a handwritten report is the only alternative, it must be prepared legibly. The submitting employee may be required by the reviewing supervisor to provide a typed final copy of the report. Employees shall promptly make any corrections and resubmit as required by the supervisor.

All reports shall accurately reflect the identity of the persons involved, all pertinent information seen, heard or assimilated by any other sense, and any actions taken. Employees shall not suppress, conceal or distort the facts of any reported incident, nor shall any employee make a false report orally or in writing. Generally, the reporting employee's opinions should not be included in reports unless specifically identified as such.

316.2 REQUIRED REPORTING

Written reports are required in all of the following situations on the appropriate department approved form unless otherwise approved by a supervisor.

316.2.1 CRIMINAL ACTIVITY REPORTING

When an employee becomes aware of any activity where a crime has occurred, the employee is required to document the activity and report the activity to the appropriate law enforcement agency. The fact that a victim is not desirous of prosecution is not an exception to documenting a report. The following are examples of required documentation:

- (a) In every instance where a felony or misdemeanor has occurred, and the documentation shall take the form of a written incident report.
- (b) In every instance where any force is used against any person or animal by department personnel.
- (c) All incidents involving domestic violence and forwarded to the appropriate law enforcement agency.
- (d) All arrests with the exception of warrant arrests on a cooperative subject.
- (e) Whenever property is seized or taken as evidence of a crime.

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Incident Report Preparation

316.2.2 NON-CRIMINAL ACTIVITY

The following incidents shall be documented using the appropriate approved report:

- (a) Anytime an officer points a firearm at any person.
- (b) Any use of force against any person by a member of this department (see the Use of Force Policy).
- (c) Any firearm discharge.
- (d) Whenever any property or contraband is booked or taken not related to a new crime.
- (e) Any traffic collisions involving department vehicles or employees engaged in County business.
- (f) Suspicious incidents that may indicate a potential for crimes against children or that a child's safety is in jeopardy.
- (g) Suspicious incidents that may place the public or others at risk.
- (h) When county or private property is damaged.
- (i) When a person in an employee's custody or care requires medical attention or treatment.
- (j) Whenever the employee believes the circumstances should be documented or at the direction of a supervisor.

316.3 GENERAL POLICY OF EXPEDITIOUS REPORTING

In general, all officers and supervisors shall act with promptness and efficiency in the preparation and processing of all reports. An incomplete report, unorganized reports or reports delayed without supervisory approval are not acceptable. Reports shall be processed according to established priorities or according to special priority necessary under exceptional circumstances.

316.4 REPORT CORRECTIONS

Supervisors shall review reports for content and accuracy. If a correction is necessary, the reviewing supervisor should document on the report the reasons for rejection. The original report with the correction(s) should be returned to the reporting employee for correcting as soon as practical. It shall be the responsibility of the originating employee to ensure that any report returned for correction is resubmitted for approval to the supervisor as directed.

News Media Relations

317.1 PURPOSE AND SCOPE

This policy provides guidelines for media releases and media access to probation investigations, scenes of disasters, emergencies and other law enforcement activities.

317.2 RESPONSIBILITIES

The ultimate authority and responsibility for the release of information to the media shall remain with the Chief Probation Officer, however, in situations not warranting immediate notice to the Chief Probation Officer and in situations where the Chief Probation Officer has given prior approval, Adult or Juvenile Division Managers, may prepare and release information to the media in accordance with this policy and the applicable law.

317.2.1 MEDIA REQUEST

Any media request for information or access to a law enforcement situation shall be referred to the Chief Probation Officer, or if unavailable, to the Division Manager. Prior to releasing any information to the media, employees shall consider the following:

- (a) At no time shall any employee of this department make any comment or release any official information to the media without prior approval from the Chief Probation Officer;
- (b) In situations involving multiple law enforcement agencies, every reasonable effort should be made to coordinate media releases with the authorized representative of each involved agency prior to the release of any information by this department;
- (c) Under no circumstance should any member of this department make any comment(s) to the media regarding any law enforcement incident not involving this department without prior approval of the Chief Probation Officer.

317.3 MEDIA ACCESS

Authorized members of the media may be provided access to scenes of disasters, criminal investigations, emergencies and other law enforcement activities subject to the following conditions (Penal Code § 409.5(d)):

- (a) The media representative shall produce valid press credentials that shall be prominently displayed at all times while in areas otherwise closed to the public.
- (b) Media representatives may be prevented from interfering with emergency operations and criminal investigations.
 - 1. Reasonable effort should be made to provide a safe staging area for the media that is near the incident and that will not interfere with emergency or criminal investigation operations. All information released to the media should be coordinated through the department Chief Probation Officer or other designated spokesperson.

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- (c) No member of this department who is under investigation shall be subjected to media visits or interviews without the consent of the involved employee (Government Code § 3303(e)).
- (d) Media interviews with individuals who are in custody shall not be permitted.

A tactical operation should be handled in the same manner as a crime scene, except the news media may be permitted within the outer perimeter of the scene, subject to any restrictions as determined by the supervisor in charge. Department members shall not jeopardize a tactical operation in order to accommodate the news media. All comments to the media shall be coordinated through a supervisor or the Chief Probation Officer.

317.3.1 PROVIDING ADVANCE INFORMATION

To protect the safety and rights of officers and other persons, advance information about planned actions by law enforcement personnel, such as movement of persons in custody or the execution of an arrest or search warrant, should not be disclosed to the news media, nor should media representatives be invited to be present.

317.4 SCOPE OF INFORMATION SUBJECT TO RELEASE

At no time shall identifying information pertaining to a juvenile detained (13 years of age and under), victim or witness be publicly released without prior approval of a competent court. The identity of a minor 14 years of age or older shall not be publicly disclosed unless the minor has been arrested for a serious felony and the release of such information has been approved by the Division Manager (Welfare and Institutions Code § 827.5).

Information concerning incidents involving certain sex crimes and other offenses set forth in Government Code § 6254(f) shall be restricted in accordance with applicable statutory provisions.

Identifying information concerning deceased individuals shall not be released to the media until notification of next of kin or otherwise cleared through the Coroner's Office.

Any requests for copies of related reports or additional information not contained in this policy shall be referred to the Chief Probation Officer, or designee. Such requests will generally be processed in accordance with the provisions of the Public Records Act (Government Code § 6250, et seq.).

317.4.1 RESTRICTED INFORMATION

It shall be the responsibility of the Chief Probation Officer or authorized employee dealing with media requests to ensure that restricted information is not inappropriately released to the media by this department. When in doubt, authorized and available legal counsel should be obtained. Examples of such restricted information include, but are not limited to:

- (a) Confidential peace officer personnel information (See the Personnel Files Policy)
 - 1. The identities of officers involved in shootings or other major incidents may only be released to the media pursuant to consent of the involved officer or upon a formal request filed and processed in accordance with the Public Records Act.
- (b) Confidential department non-sworn personnel information

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- (c) Copies of departmental incident reports
- (d) Criminal history information
- (e) Information that would tend to endanger the safety of any individual or jeopardize the successful completion of any ongoing investigation
- (f) Information pertaining to pending litigation involving this department
- (g) Information obtained in confidence
- (h) Information regarding juveniles
- (i) Any information that is otherwise privileged or restricted under state or federal law. (Government Code § 6254(k)).

Subpoenas and Court Appearances

318.1 PURPOSE AND SCOPE

This procedure has been established to provide for the acceptance of subpoenas and to ensure that employees appear when subpoenaed, or are available to appear in court when requested and present a professional appearance.

318.1.1 DEFINITIONS

On-Call - When an employee has appeared in court, or is at the time on-duty, and has been told by a member of the court that he/she is free to leave the court or return to duty, subject to being available by phone or pager if called back.

Standby - When an employee receives a subpoena of a type which allows him or her to not appear in court, but remain available by phone or pager so that he or she may be directed to appear in court within a reasonable amount of time.

Trailing Status - When an employee remains on standby status for additional court sessions until notified otherwise.

Mandatory Appearance - Subpoenas marked as mandatory appearance require an employee's physical appearance in the specified court. Failure to timely appear in the specified court, either intentionally or by negligence, may result in disciplinary action.

318.2 COURT SUBPOENAS

Employees who receive subpoenas related to their employment with this department are subject to the provisions of this policy. Employees should be aware that their compliance is mandatory on all cases for which they have been properly subpoenaed, or properly notified. This policy applies to civil and criminal subpoenas. Employees are expected to cooperate with the prosecution to ensure the successful conclusion of a case.

318.2.1 SERVICE OF SUBPOENA

Service of a subpoena requiring the appearance of any department employee in connection with a matter arising out of the employee's course and scope of official duties may be accomplished by personal service on the employee or by delivery of two copies of the subpoena on the employee's supervisor or other authorized departmental agent (Government Code § 68097.1; Penal Code § 1328(c)). Subpoena service is also acceptable by courier or court liaison from the court to this department, and by electronic delivery. Upon receipt of electronic delivery employees shall immediately acknowledge receipt of service.

318.2.2 VALID SUBPOENAS

No subpoena shall be accepted for an employee of this department unless it has been properly served and verified to have originated from a recognized legal authority.

318.2.3 ACCEPTANCE OF SUBPOENA

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- (a) Only the employee named in a subpoena, manager or the department designated employee shall be authorized to accept service of a subpoena. (Penal Code § 1328(c)). Any authorized employee accepting a subpoena shall immediately provide a copy of the subpoena to a manager.
- (b) Any manager accepting a subpoena on behalf of another employee shall immediately check available schedules to determine the availability of the named employee for the date listed on the subpoena.
- (c) Once a subpoena has been received by a manager, a copy of the subpoena shall be promptly provided the individually named employee.

318.2.4 REFUSAL OF SUBPOENA

If, due to illness or injury, the named employee is unable to appear in court as directed by a previously served subpoena, he/she shall, at least one hour before the appointed date and time, inform a supervising probation officer or Division Manager of his/her absence. It shall then be the responsibility of the supervising probation officer or Division Manager to notify the issuing authority of the employee's unavailability to appear.

If a manager or the department-designed employee knows that he/she will be unable to deliver a copy of the subpoena to the named employee within sufficient time for the named employee to comply with the subpoena, the manager or the department designated employee may refuse to accept service (Penal Code § 1328(d)).

If a subpoena is presented for service to a manager or the department designated employee less than five working days prior to the date listed for an appearance and the manager or department designated employee is not reasonably certain that the service can be completed, he/she may refuse to accept service (Penal Code § 1328(e)).

If, after initially accepting service of a subpoena, a manager or department designated employee determines that he/she will be unable to deliver a copy of the subpoena to the individually named employee within sufficient time for the named employee to comply with the subpoena, the manager or department designated employee shall notify the server or the attorney named on the subpoena of such not less than 48 hours prior to the date listed for the appearance (Penal Code § 1328(f)).

318.2.5 COURT STANDBY

To facilitate court standby agreements, employees are required to provide and maintain current information on their address and phone number with the Department. Employees are required to notify the Department by the following business day of any change in residence address or home phone number, and to provide accurate and reasonably reliable means or methods for contact.

An employee on standby must be reachable by telephone or cell phone. Employees are required to remain on standby each day the case is trailing. In a criminal case the attorney issuing the subpoena is the only person authorized to excuse an employee from standby status.

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318.2.6 OFF-DUTY RELATED SUBPOENAS

Employees receiving valid subpoenas for actions taken off-duty not related to their employment with Tuolumne County Probation Department shall comply with the requirements of the subpoena. Employees receiving these subpoenas are not compensated for their appearance and arrangements for time off shall be coordinated through their immediate supervisor.

318.2.7 FAILURE TO APPEAR

Any employee who fails to comply with the terms of any valid and properly served subpoena may be subject to discipline as well as court imposed civil and/or criminal sanctions.

318.3 CIVIL SUBPOENAS

The Department will compensate employees who appear in their official capacity on civil matters arising out of the employee's official duties. In such situations, the Department will also reimburse any officer for reasonable and necessary travel expenses. Employees shall obtain prior approval from the Chief Probation Officer in order to use personal vehicles.

318.3.1 PROCEDURE

To ensure that the officer is able to appear when required, that the officer is compensated for such appearance, and to protect the Department's right to reimbursement, officers shall follow the established procedures for the receipt of a civil subpoena and/or directives from County Counsel.

318.3.2 CIVIL SUBPOENA ACCEPTANCE

Subpoenas shall not be accepted in a civil action in which the officer or Department is not a party without properly posted fees pursuant to Government Code § 68097.6 and in consultation with County Counsel.

318.3.3 PARTY MUST DEPOSIT FUNDS

The party in the civil action that seeks to subpoena an officer must deposit the statutory fee of \$275 (Government Code § 68097.2) for each appearance before such subpoena will be accepted. Parties seeking to have the officer make multiple appearances must make an additional deposit in advance.

318.4 OVERTIME APPEARANCES

If an employee appeared on his/her off-duty time, he/she will be compensated in accordance with the current employee Memorandum of Understanding.

The overtime on such appearance will be paid from the time the employee left his/her residence until he/she returned.

318.5 COURTROOM PROTOCOL

Employees must be punctual when appearing in court and shall be prepared to proceed immediately with the case for which they are subpoenaed.

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318.5.1 PREPARATION FOR TESTIMONY

Before testifying, the subpoenaed employee shall become familiar with the content of the case in order to be prepared for court.

318.5.2 COURTROOM ATTIRE

Employees shall dress in business attire. Suitable business attire for men would consist of a coat, tie, and dress pants. Suitable business attire for female employees would consist of a dress jacket, dress blouse, and skirt or slacks. Officers on court call back, and who are performing supervision duties, may wear their field uniform to report to court. With supervisor approval officers may remove their vest and wear a dress coat while carrying concealed.

318.6 COURTHOUSE DECORUM

Employees shall observe all rules of the court in which they are appearing, refrain from chewing gum in the courtroom, and shall remain alert to changes in the assigned courtroom where their matter is to be heard.

318.7 TESTIFYING AGAINST THE INTEREST OF THE PEOPLE OF THE STATE

Any employee who is subpoenaed to testify, who has agreed to testify, or who anticipates testifying or providing information on behalf of or at the request of any party other than the People of the State of California, any county, any city, or any of their officers and employees in which any of those entities are parties, will notify their immediate supervisor without delay. The supervisor will then notify the Chief Probation Officer, District Attorney's Office in criminal cases, or County Counsel, as may be indicated by the case.

This includes, but is not limited to the following situations:

- (a) Providing testimony or information for the defense in any criminal trial or proceeding;
- (b) Providing testimony or information for the plaintiff in a civil proceeding against any county, any city, or their officers and employees; or
- (c) Providing testimony or information on behalf of or at the request of any party other than any County, city, or any county or city official in any administrative proceeding, including but not limited to personnel and/or disciplinary matter.

Outside Agency Assistance

319.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidance to employees when requesting or responding to a request for mutual aid or when assisting another law enforcement agency.

319.2 POLICY

It is the policy of the Tuolumne County Probation Department to promptly respond to requests for assistance by other law enforcement agencies, subject to available resources and consistent with the applicable laws and policies of this department.

319.3 ASSISTING OUTSIDE AGENCIES

Generally, requests for any type of assistance from another agency should be routed to the Chief Probation Officer or Assistant Chief's for approval. In some instances, a memorandum of understanding or other established protocol may exist that eliminates the need for approval of individual requests.

When another law enforcement agency requests assistance from this department, the Chief Probation Officer or Assistant Chief may authorize, if available, an appropriate number of personnel to assist. Employees are reminded that their actions when rendering assistance must conform with applicable laws and be consistent with the policies of this department.

Officers may respond to a request for emergency assistance, however, they shall notify a supervisor of their activity as soon as practicable.

Arrestees may be temporarily detained by this department until arrangements for transportation are made by the outside agency. Only in exceptional circumstances, and subject to supervisor approval, will this department provide transportation of arrestees to other facilities on behalf of another agency.

When transportation assistance is rendered, a report shall be prepared and submitted by the handling employee unless otherwise directed by a supervisor.

319.3.1 OFFICER ACTIVITY OUTSIDE OF JURISDICTION

Any on-duty officer who engages in law enforcement activities of any type that are not part of a mutual aid request and take place outside the jurisdiction of the Tuolumne County Probation Department shall notify his/her supervisor or the Division Manager and Dispatch as soon as practicable. This requirement does not apply to special enforcement details or multi-agency units that regularly work in multiple jurisdictions.

319.4 REQUESTING OUTSIDE ASSISTANCE

If assistance is needed from another agency, the officer requesting assistance should first notify a supervisor. The handling officer or supervisor should direct assisting personnel to where they are needed and to whom they should report when they arrive.

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The requesting officer should arrange for appropriate radio communication capabilities, if necessary and available, so that communication can be coordinated between assisting personnel.

319.5 REPORTING REQUIREMENTS

Incidents of outside assistance or law enforcement activities that are not documented in a crime report shall be documented in a general case report or as directed by a supervisor.

Major Incident Notification

320.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidance to staff of this department in determining when, how and to whom notification of major incidents should be made.

320.2 POLICY

The Tuolumne County Probation Department recognizes that certain incidents should be brought to the attention of the Chief Probation Officer or managers or other specified personnel of this department to facilitate the coordination of activities and ensure that inquiries from the media and the public may be properly addressed.

320.3 MINIMUM CRITERIA FOR NOTIFICATION

Most situations where the media show a strong interest are also of interest to the Chief Probation Officer and the affected Adult or Juvenile Division Manager. The following list of incident types is provided as a guide for notification and is not intended to be all inclusive:

- In-custody escapes
- Homicides
- Traffic accidents with fatalities
- Officer-involved shooting - on or off duty (see Officer-Involved Shootings and Deaths Policy for special notifications)
- Significant injury or death to employee - on or off duty
- Death of a prominent Tuolumne official
- Arrest of a department employee or prominent Tuolumne official
- Aircraft crash with major damage and/or injury or death
- In-custody deaths

320.4 NOTIFICATION RESPONSIBILITY

The Chief Probation Officer or designee is responsible for making the appropriate notifications. The Chief Probation Officer or designee shall make reasonable attempts to obtain as much information on the incident as possible before notification. The Chief Probation Officer or designee shall attempt to make the notifications as soon as practicable. Notification should be made by calling the telephone number on record first and then by any other available contact numbers.

320.4.1 STAFF NOTIFICATION

In the event an incident occurs described in the Major Incident Notification Policy, the Chief Probation Officer shall be notified along with the affected Division Manager.

Communications with Persons with Disabilities

321.1 PURPOSE AND SCOPE

This policy provides guidance to staff when communicating with individuals with disabilities, including those who are deaf or hard of hearing, have impaired speech or vision, or are blind.

321.1.1 DEFINITIONS

Definitions related to this policy include:

Auxiliary aids - These are used to communicate with people who are deaf, hard of hearing or have impaired speech. They include, but are not limited to, the use of gestures or visual aids to supplement oral communication; use of a notepad and pen or pencil to exchange written notes; use of a computer or typewriter; use of an assistive listening system or device to amplify sound; use of a teletypewriter (TTY), videophones (video relay service or VRS); or use of a qualified interpreter.

Deaf or hard of hearing - An individual who has or is regarded as having substantially limited hearing with or without assistance.

Qualified interpreter - A person who is able to interpret effectively, accurately and impartially, both receptively and expressively, using any necessary specialized vocabulary. Qualified interpreters include oral interpreters, translators, sign language interpreters and intermediary interpreters.

321.2 POLICY

It is the policy of the Tuolumne County Probation Department to reasonably ensure that people with disabilities, including victims, witnesses, suspects and arrestees have equal access to law enforcement services, programs and activities. Staff must make efforts to communicate effectively with individuals with disabilities.

The Department will not discriminate against or deny any individual access to services, rights or programs based upon disabilities.

321.3 AMERICANS WITH DISABILITIES (ADA) COORDINATOR

The Chief Probation Officer shall defer all responsibilities to the County Human Resources Manager (28 CFR 35.107).

321.4 FACTORS TO CONSIDER

Because the nature of any law enforcement contact may vary substantially from one situation to the next, employees of this department should consider all information reasonably available to them when determining how to communicate with an individual with a disability. Employees should carefully balance all known factors in an effort to reasonably ensure people who are disabled have equal access to services, programs and activities. These factors may include, but are not limited to:

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- (a) Employees should not always assume that effective communication is being achieved. The fact that an individual appears to be nodding in agreement does not always mean he/she completely understands the message. When there is any doubt, employees should ask the individual to communicate back or otherwise demonstrate their understanding.
- (b) The nature of the disability (e.g., deafness or blindness vs. hard of hearing or low vision).
- (c) The nature of the law enforcement contact (e.g., emergency vs. non-emergency, custodial vs. consensual contact).
- (d) The availability of auxiliary aids. The fact that a particular aid is not available does not eliminate the obligation to reasonably ensure access. However, in an emergency, availability may factor into the type of aid used.

321.5 INITIAL AND IMMEDIATE CONSIDERATIONS

Recognizing that various law enforcement encounters may be potentially volatile and/or emotionally charged, employees should remain alert to the possibility of communication problems.

Employees should exercise special care in the use of all gestures, and verbal and written communication to minimize initial confusion and misunderstanding when dealing with any individual with known or suspected disabilities.

In a non-emergency situation, when an employee knows or suspects an individual requires assistance to effectively communicate, the employee shall identify the individual's choice of auxiliary aid or service.

The individual's preferred communication method must be honored unless another effective method of communication exists under the circumstances (28 CFR 35.160).

Factors to consider when determining whether an alternative method is effective include:

- (a) The methods of communication usually used by the individual.
- (b) The nature, length and complexity of the communication involved.
- (c) The context of the communication.

In emergency situations involving an imminent threat to the safety or welfare of any person, employees may use whatever auxiliary aids and services that reasonably appear effective under the circumstances. This may include, for example, exchanging written notes or using the services of a person who knows sign language but is not a qualified interpreter, even if the person who is deaf or hard of hearing would prefer a qualified sign language interpreter or another appropriate auxiliary aid or service. Once the emergency has ended, the continued method of communication should be reconsidered. The employee should inquire as to the individual's preference and give primary consideration to that preference.

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Communications with Persons with Disabilities

If an individual who is deaf, hard of hearing or has impaired speech must be handcuffed while in the custody of the Tuolumne County Probation Department, consideration should be given, safety permitting, to placing the handcuffs in the front of the body to facilitate communication using sign language or writing.

321.6 TYPES OF ASSISTANCE AVAILABLE

Tuolumne County Probation Department employees shall never refuse to assist an individual with disabilities who is requesting assistance. The Department will not charge anyone to receive auxiliary aids, nor shall they require anyone to furnish their own auxiliary aid or service as a condition for receiving assistance. The Department will make every reasonable effort to provide equal access and timely assistance to individuals who are disabled through a variety of services.

A person who is disabled may choose to accept department-provided services or they may choose to provide their own.

321.7 AUDIO RECORDINGS AND ENLARGED PRINT

The Department may develop audio recordings to assist people who are blind or have a visual impairment with accessing important information. If such a recording is not available, employees may read aloud from the appropriate form, for example a personnel complaint form, or provide forms with enlarged print.

321.8 QUALIFIED INTERPRETERS

A qualified interpreter may be needed in lengthy or complex transactions (e.g., interviewing a victim, witness, suspect or arrestee), if the individual to be interviewed normally relies on sign language or speechreading (lip-reading) to understand what others are saying. The qualified interpreter should not be a person with an interest in the case or investigation involving the disabled individual. A person providing interpretation services may be required to establish the accuracy and trustworthiness of the interpretation in a court proceeding.

Qualified interpreters should be:

- (a) Available within a reasonable amount of time but in no event longer than one hour if requested.
- (b) Experienced in providing interpretation services related to law enforcement matters.
- (c) Familiar with the use of VRS and/or video remote interpreting services.
- (d) Certified in either American Sign Language (ASL) or Signed English (SE).
- (e) Able to understand and adhere to the interpreter role without deviating into other roles, such as counselor or legal adviser.
- (f) Knowledgeable of the ethical issues involved when providing interpreter services.

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Staff should use department-approved procedures to request a qualified interpreter at the earliest reasonable opportunity. No individual who is disabled shall be required to provide his/her own interpreter (28 CFR 35.160).

Biological Samples

322.1 PURPOSE AND SCOPE

This policy provides guidelines for the collection of biological samples from those individuals required to provide samples upon conviction, or felony juvenile adjudications for certain offenses. This policy does not apply to biological samples collected at a crime scene or taken from a person in conjunction with a criminal investigation.

322.2 POLICY

The Tuolumne County Probation Department will assist in the expeditious collection of required biological samples from offenders in accordance with the laws of this state and with as little reliance on force as practicable.

322.3 PERSONS SUBJECT TO DNA COLLECTION

Those who must submit a biological sample include (Penal Code § 296 and 296.1):

- (a) A person, including a juvenile, upon conviction or other adjudication of any felony offense.
- (b) A person, including a juvenile, upon conviction or other adjudication of any offense if the person has a prior felony on record.
- (c) An adult placed on formal supervision for a qualifying offense who has not submitted a sample.

322.4 PROCEDURE

When an individual is required to provide a biological sample, a trained employee shall obtain the sample in accordance with this policy.

322.4.1 COLLECTION

The following steps should be taken to collect a sample:

- (a) Verify that the individual is required to provide a sample pursuant to Penal Code § 296; Penal Code § 296.1.
- (b) Verify that a biological sample has not been previously collected from the offender by querying the individual's criminal history record for a DNA collection flag or, during regular business hours, calling the California Department of Justice (DOJ) designated DNA laboratory. There is no need to obtain a biological sample if one has been previously obtained.
- (c) Use a DNA buccal swab collection kit provided by the California DOJ to perform the collection and take steps to avoid cross contamination.

Biological Samples

322.5 USE OF FORCE TO OBTAIN SAMPLES

If a person refuses to cooperate with the sample collection process, officers should attempt to identify the reason for refusal and seek voluntary compliance without resorting to using force. Force will not be used in the collection of samples except as authorized by court order and only with the approval of the Chief Probation Officer. Methods to consider when seeking voluntary compliance include contacting:

- (a) The person's parole or probation officer when applicable.
- (b) The prosecuting attorney to seek additional charges against the person for failure to comply or to otherwise bring the refusal before a judge.
- (c) The judge at the person's next court appearance.
- (d) The person's attorney.
- (e) A chaplain.

A Division Manager shall review and approve any plan to use force and be present to document the process.

322.5.1 VIDEO RECORDING

A video recording should be made anytime force is used to obtain a biological sample. The recording should document all staff participating in the process, in addition to the methods and all force used during the collection. The recording should be part of the investigation file, if any, or otherwise retained in accordance with the department's records retention schedule (15 CCR 1059).

322.6 LEGAL MANDATES AND RELEVANT LAWS

California law provides for the following:

322.6.1 DOCUMENTATION RELATED TO FORCE

A Division Manager or authorized designee shall prepare prior written authorization for the use of any force (15 CCR 1059). The written authorization shall include information that the subject was asked to provide the requisite specimen, sample or impression and refused, as well as the related court order authorizing the force.

322.6.2 BLOOD SAMPLES

A blood sample should only be obtained under this policy when:

- (a) The California DOJ requests a blood sample and the subject consents, or
- (b) A court orders a blood sample following a refusal.

The withdrawal of blood may only be performed in a medically approved manner by health care providers trained and qualified to draw blood. A California DOJ collection kit shall be used for this purpose (Penal Code § 298(a); Penal Code § 298(b)(2)).

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322.6.3 LITIGATION

The Chief Probation Officer or authorized designee should notify the California DOJ's DNA Legal Unit in the event this department is named in a lawsuit involving the DNA Data Bank sample collection, sample use or any aspect of the state's DNA Data Bank Program.

Child and Dependent Adult Safety

323.1 PURPOSE AND SCOPE

This policy provides guidelines to ensure that children and dependent adults are not left without appropriate care in the event their caregiver or guardian is arrested or otherwise prevented from providing care due to actions taken by members of this department (Penal Code § 833.2(a)).

This policy does not address the actions to be taken during the course of a child abuse or dependent adult investigation. These are covered in the Child Abuse and Adult Abuse policies.

323.1.1 POLICY

It is the policy of this department to mitigate, to the extent reasonably possible, the stressful experience children may have when their parent or caregiver is arrested. The Tuolumne County Probation Department will endeavor to create a strong cooperative relationship with local, state and community-based child social services to ensure an effective, collaborative response that addresses the needs of affected children.

323.2 POLICY

It is the policy of this department to mitigate, to the extent reasonably possible, the stressful experience individuals may have when their parent or caregiver is arrested. The Tuolumne County Probation Department will endeavor to create a strong, cooperative relationship with local, state and community-based social services to ensure an effective, collaborative response that addresses the needs of those affected, including call-out availability and follow-up responsibilities.

323.2.1 AFTER AN ARREST

Whenever an arrest is made, the officer should take all reasonable steps to ensure the safety of the arrestee's disclosed or discovered, dependent minor children.

Officers should allow the arrestee reasonable time to arrange for care of minor children. Temporary placement of the child with family or friends may be appropriate. However, any decision should give priority to a child-care solution that is in the best interest of the child. In such cases the following guidelines should be followed:

- (a) Allow the person reasonable time to arrange for the care of minor children with a responsible party, as appropriate.
 - 1. Unless there is evidence to the contrary (e.g., signs of abuse, drug use, unsafe environment), officers should respect the parent's judgment regarding arrangements for child care. It is generally best if the child remains with relatives or family friends the child knows and trusts. Consideration regarding the child's familiarity with the surroundings, comfort, emotional state and safety should be paramount.

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2. Except when a court order exists limiting contact, the officer should attempt to locate and place dependent children with the non-arrested parent or guardian.
- (b) Provide for the immediate supervision of minor children until an appropriate caregiver arrives.
- (c) Notify Child Welfare Services as necessary.
- (d) Notify the field supervisor or Division Manager of the disposition of minor children.

323.2.2 REPORTING

For all arrests where children are present or living in the household, the reporting employee will include information about the children, including names, gender, age and how they were placed.

323.3 CHILD WELFARE SERVICES

Whenever an arrestee is unwilling or incapable of arranging for the appropriate care of any dependent minor children, the handling officer shall immediately contact Child Welfare Services.

Under no circumstances should a child be left unattended or without appropriate care.

Service Animals

324.1 PURPOSE AND SCOPE

The purpose of this policy is to provide the guidelines necessary to ensure the rights of individuals who use service animals to assist with disabilities are protected in accordance with Title II of the Americans with Disabilities Act of 1990 (ADA).

324.1.1 DEFINITIONS

Definitions related to this policy include:

Service animal - A dog that is trained to do work or perform tasks for the benefit of an individual with a disability, including a physical, sensory, psychiatric, intellectual or other mental disability. The work or tasks performed by a service animal must be directly related to the individual's disability (28 CFR 35.104; Health and Safety Code § 113903).

Service animal also includes a miniature horse if the horse is trained to do work or perform tasks for people with disabilities, provided the horse is housebroken, is under the handler's control, the facility can accommodate the horse's type, size and weight, and the horse's presence will not compromise legitimate safety requirements necessary for safe operation of the facility (28 CFR 35.136(i)).

324.2 POLICY

It is the policy of the Tuolumne County Probation Department to provide services and access to persons with service animals in the same manner as those without service animals. Department members shall protect the rights of persons assisted by service animals in accordance with state and federal law.

324.3 IDENTIFICATION AND USE OF SERVICE ANIMALS

Some service animals may be readily identifiable. However, many do not have a distinctive symbol, harness or collar.

Service animals may be used in a number of ways to provide assistance, including:

- Guiding people who are blind or have low vision.
- Alerting people who are deaf or hard of hearing.
- Retrieving or picking up items, opening doors or flipping switches for people who have limited use of their hands, arms or legs.
- Pulling wheelchairs.
- Providing physical support and assisting with stability and balance.
- Doing work or performing tasks for persons with traumatic brain injury, intellectual disabilities or psychiatric disabilities, such as reminding a person with depression to take medication.

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- Alerting a person with anxiety to the onset of panic attacks, providing tactile stimulation to calm a person with post-traumatic stress disorder, assisting people with schizophrenia to distinguish between hallucinations and reality, and helping people with traumatic brain injury to locate misplaced items or follow daily routines.

324.4 EMPLOYEE RESPONSIBILITIES

Service animals that are assisting individuals with disabilities are permitted in all public facilities and areas where the general public is allowed. Department employees are expected to treat individuals with service animals with the same courtesy and respect that the Tuolumne County Probation Department affords to all members of the public (28 CFR 35.136).

324.4.1 INQUIRY

If it is apparent or if an employee is aware that an animal is a service animal, the individual generally should not be asked any questions as to the status of the animal. If it is unclear whether an animal meets the definition of a service animal, the employee should ask the individual only the following questions (28 CFR 35.136(f)):

- Is the animal required because of a disability?
- What task or service has the service animal been trained to perform?

If the individual explains that the animal is required because of a disability and has been trained to work or perform at least one task, the animal meets the definition of a service animal and no further questions as to the animal's status should be asked. The individual should not be questioned about his/her disability nor should the person be asked to provide any license, certification or identification card for the service animal.

324.4.2 CONTACT

Service animals are not pets. Department employees should not interfere with the important work performed by a service animal by talking to, petting or otherwise initiating contact with a service animal.

324.4.3 REMOVAL

If a service animal is not housebroken or exhibits vicious behavior, poses a direct threat to the health of others, or unreasonably disrupts or interferes with normal business operations, an officer may direct the handler to remove the animal from the premises. Barking alone is not a threat nor does a direct threat exist if the person takes prompt, effective action to control the service animal (28 CFR 35.136(b)).

Each incident must be considered individually and past incidents alone are not cause for excluding a service animal. Removal of a service animal may not be used as a reason to refuse service to an individual with disabilities. Employees of this department are expected to provide all services as are reasonably available to an individual with a disability, with or without a service animal.

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324.4.4 COMPLAINTS

When handling calls of a complaint regarding a service animal, members of this department should remain neutral and should be prepared to explain the ADA requirements concerning service animals to the concerned parties. Businesses are required to allow service animals to accompany their handlers into the same areas that other customers or members of the public are allowed (28 CFR 36.302).

Absent a violation of law independent of the ADA, officers should take no enforcement action beyond keeping the peace. Individuals who believe they have been discriminated against as a result of a disability should be referred to the Civil Rights Division of the U.S. Department of Justice (DOJ).

Volunteer Program

325.1 PURPOSE AND SCOPE

It is the policy of this department to use qualified volunteers for specified tasks and duties in order to create efficiencies for the Department and improve services to the community. Volunteers are intended to supplement and support, rather than supplant, sworn officers and civilian personnel. Volunteers can be an important part of any organization and are proven to be a valuable asset to law enforcement agencies. Volunteers help to increase departmental responsiveness, delivery of services and information input, and provide new program opportunities. In addition, volunteers bring new skills and expertise to the Department and prompt new enthusiasm.

325.1.1 DEFINITION OF VOLUNTEER

An individual who performs a service for the Department without promise, expectation or receipt of compensation for services rendered. This may include volunteers from community based organizations, interns, and persons providing administrative or program support.

325.2 VOLUNTEER MANAGEMENT

325.2.1 SCREENING

All prospective volunteers should complete the volunteer application form. The background investigator or designee should conduct a face-to-face interview with an applicant under consideration.

A documented background investigation shall be completed on each volunteer applicant and shall include, but not necessarily be limited to, the following:

- (a) Traffic and criminal background check. Fingerprints shall be obtained from all applicants and processed through the California Criminal Information Index.
- (b) Employment
- (c) References

325.2.2 TRAINING

Volunteers will be provided with an orientation program to acquaint them with the Department, personnel, policies and procedures that have a direct impact on their work assignment.

Volunteers should receive position-specific training to ensure they have adequate knowledge and skills to complete tasks required by the position and should receive periodic ongoing training as deemed appropriate by their supervisor or the Volunteer Coordinator.

Training should reinforce to volunteers that they may not intentionally represent themselves as, or by omission infer that they are sworn officers or other full-time members of the Department. They shall always represent themselves as volunteers.

All volunteers shall comply with the rules of conduct and with all orders and directives, either oral or written, issued by the Department.

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325.2.3 FITNESS FOR DUTY

No volunteer shall report to work or be on-duty when his/her judgment or physical condition has been impaired by alcohol, medication, other substances, illness or injury.

Volunteers shall report to their supervisor any changes in status that may affect their ability to fulfill their duties. This includes, but is not limited to, the following:

- (a) Driver license
- (b) Medical condition
- (c) Arrests
- (d) Criminal investigations

All volunteers shall adhere to the guidelines set forth by this department regarding drug and alcohol use.

325.2.4 DRESS CODE

As representatives of the Department, volunteers are responsible for presenting a professional image to the community. Volunteers shall dress appropriately for the conditions and performance of their duties.

Volunteers shall be required to return any issued uniform or department property at the termination of service.

325.3 SUPERVISION OF VOLUNTEERS

Each volunteer who is accepted to a position with the Department must have a clearly identified supervisor who is responsible for direct management of that volunteer. This supervisor will be responsible for day-to-day management and guidance of the work of the volunteer and should be available to the volunteer for consultation and assistance.

A volunteer may be assigned as a supervisor of other volunteers provided that the supervising volunteer is under the direct supervision of a paid staff member.

Functional supervision of volunteers is the responsibility of the supervisor in charge of the unit where the volunteer is assigned. Following are some considerations to keep in mind while supervising volunteers:

- (a) Take the time to introduce volunteers to employees on all levels.
- (b) Ensure volunteers have work space and necessary office supplies.
- (c) Make sure the work is challenging. Do not hesitate to give them an assignment or task that will tap these valuable resources.

325.4 CONFIDENTIALITY

With appropriate security clearance, volunteers may have access to confidential information such as criminal histories or investigative files. Unless otherwise directed by a supervisor

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or departmental policy, all information shall be considered confidential. Only that information specifically identified and approved by authorized personnel shall be released. Confidential information shall be given only to persons who have a need and a right to know as determined by departmental policy and supervisory personnel.

Each volunteer will be required to sign a nondisclosure agreement before being given an assignment with the Department. Subsequent unauthorized disclosure of any confidential information, verbally, in writing or by any other means, by the volunteer is grounds for immediate dismissal and possible criminal prosecution.

Volunteers shall not address public gatherings, appear on radio or television, prepare any article for publication, act as correspondents to a newspaper or other periodical, release or divulge any information concerning the activities of the Department, or maintain that they represent the Department in such matters without permission from the proper department personnel.

325.5 PROPERTY AND EQUIPMENT

Volunteers will be issued an identification card that must be worn at all times when on official business. Any fixed and portable equipment issued by the Department shall be for official and authorized use only. Any property or equipment issued to a volunteer shall remain the property of the Department and shall be returned at the termination of service.

325.5.1 VEHICLE USE

When operating a Department vehicle, volunteers shall obey all rules of the road, including seat belt requirements. Smoking is prohibited in all Department vehicles.

325.5.2 RADIO USAGE

Volunteers shall successfully complete radio procedures training prior to using the police radio and comply with all related provisions. The Supervising Probation Officer assigned the training manager responsibilities shall ensure that radio training is provided for volunteers whenever necessary.

325.6 DISCIPLINARY PROCEDURES/TERMINATION

A volunteer may be removed from the volunteer program at the discretion of the Chief Probation Officer. Volunteers shall have no property interests in their continued appointment. However, if a volunteer is removed for alleged misconduct, the volunteer will be afforded an opportunity solely to clear his/her name through a liberty interest hearing which shall be limited to a single appearance before the Chief Probation Officer or authorized designee.

Volunteers may resign from volunteer service with the Department at any time. It is requested that volunteers who intend to resign provide advance notice of their departure and a reason for their decision.

325.6.1 EXIT INTERVIEWS

Exit interviews, where possible, should be conducted with volunteers who are leaving their positions. The interview should ascertain why the volunteer is leaving the position and solicit the

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volunteer's suggestions on improving the position. When appropriate, the interview should also include a discussion on the possibility of involvement in some other capacity with the Department.

Department Use of Social Media

326.1 PURPOSE AND SCOPE

This policy provides guidelines to ensure that any use of social media on behalf of the Department is consistent with the department mission.

This policy does not address all aspects of social media use. Specifically, it does not address:

- Personal use of social media by department members (see the Employee Speech, Expression and Social Networking Policy).
- Use of social media in personnel processes (see the Recruitment and Selection Policy).
- Use of social media as part of a criminal investigation, other than disseminating information to the public on behalf of this department (see the Investigation and Prosecution Policy).

326.1.1 DEFINITIONS

Definitions related to this policy include:

Social media - Any of a wide array of Internet-based tools and platforms that allow for the sharing of information, such as the department website or social networking services

326.2 POLICY

The Tuolumne County Probation Department may use social media as a method of effectively informing the public about department services, issues, investigations and other relevant events.

Department members shall ensure that the use or access of social media is done in a manner that protects the constitutional rights of all.

326.3 AUTHORIZED USERS

Only employees authorized by the Chief Probation Officer may utilize social media on behalf of the Department. Authorized employees shall use only department-approved equipment during the normal course of duties to post and monitor department-related social media, unless they are specifically authorized to do otherwise by their supervisors.

The Chief Probation Officer may develop specific guidelines identifying the type of content that may be posted. Any content that does not strictly conform to the guidelines should be approved by a manager or authorized supervisor prior to posting.

Requests to post information over department social media by employees who are not authorized to post should be made through the employee's chain of command.

326.4 AUTHORIZED CONTENT

Only content that is appropriate for public release, that supports the department mission and conforms to all department policies regarding the release of information may be posted.

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Examples of appropriate content include:

- (a) Announcements.
- (b) Tips and information related to crime prevention.
- (c) Investigative requests for information.
- (d) Requests that ask the community to engage in projects that are relevant to the department mission.
- (e) Real-time safety information that is related to in-progress crimes, geographical warnings or disaster information.
- (f) Traffic information.
- (g) Press releases.
- (h) Recruitment of personnel.

326.5 PROHIBITED CONTENT

Content that is prohibited from posting includes, but is not limited to:

- (a) Content that is abusive, discriminatory, inflammatory or sexually explicit.
- (b) Any information that violates individual rights, including confidentiality and/or privacy rights and those provided under state, federal or local laws.
- (c) Any information that could compromise an ongoing investigation.
- (d) Any information that could tend to compromise or damage the mission, function, reputation or professionalism of the Tuolumne County Probation Department or its employees.
- (e) Any information that could compromise the safety and security of department operations, employees of the Department, victims, suspects or the public.
- (f) Any content posted for personal use.
- (g) Any content that has not been properly authorized by this policy or a manager or authorized supervisor.

Any employee who becomes aware of content on this department's social media site that he/she believes is unauthorized or inappropriate should promptly report such content to a manager or authorized supervisor. The manager or authorized supervisor will ensure its removal from public view and investigate the cause of the entry.

326.5.1 PUBLIC POSTING PROHIBITED

Department social media sites shall be designed and maintained to prevent posting of content by the public.

The Department may provide a method for members of the public to contact department employees directly.

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326.6 MONITORING CONTENT

The Chief Probation Officer will appoint a Manager or authorized supervisor to review, at least annually, the use of department social media and report back on, at a minimum, the resources being used, the effectiveness of the content, any unauthorized or inappropriate content and the resolution of any issues.

326.7 TRAINING

Authorized employees should receive training that, at a minimum, addresses legal issues concerning the appropriate use of social media sites, as well as privacy, civil rights, dissemination and retention of information posted on department sites.

Canines

327.1 PURPOSE AND SCOPE

This policy establishes guidelines for the use of a canine to augment probation services to the community including, but not limited to assisting officers in locating the unauthorized possession of controlled substances, firearms, and ammunition.

327.2 POLICY

It is the policy of the Tuolumne County Probation Department that the canine and handler meet and maintain the appropriate proficiency to effectively and reasonably carry out legitimate community supervision and public safety objectives. The probation canine team will serve to enhance the efficiency of field supervision officers in monitoring the compliance of supervised offenders prohibited from possessing drugs and firearms. The canine team will also enhance the safety of minors and staff at the juvenile detention facility by assisting with contraband searches. The canine team may also be called upon to assist partnering law enforcement agencies to carry out legitimate law enforcement objectives under the guidelines established.

The probation canine shall not be used for the apprehension or search of concealed, fleeing, or resisting individuals.

327.3 ASSIGNMENT

The canine team should be assigned to assist and supplement the the field supervision services within the Adult Division. However, the team may be required by the Adult Division Manager to carry out other functions, such as residency verifications, Juvenile Division compliance checks, and other routine supervision tasks as needed based on the current operational needs. The canine team may also perform contraband searches at the Mother Lode Regional Juvenile Detention Facility according to the established guidelines.

The canine team should generally not be assigned to handle matters that will take them out of field supervision services for extended periods of time.

327.4 CANINE SUPERVISOR

The canine team supervisor shall be the Adult Division Manager or another designated supervisor or manager at the discretion of the Chief Probation Officer.

The responsibilities of the supervisor include, but are not limited to:

- (a) Reviewing all incident reports involving the use of the canine team to ensure compliance with policy and to identify training issues and other needs of the program.
- (b) Maintaining a liaison with the vendor kennel.
- (c) Maintaining a liaison with management staff.

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- (d) Coordinating with the Juvenile Division Manager and Superintendent of the juvenile detention facility regarding the guidelines and scheduling of the canine team.
- (e) Maintaining a liaison with training vendors and other agency canine coordinators for training purposes.
- (f) Maintaining accurate records to document canine activities.
- (g) Recommending and overseeing the procurement of equipment and services for the team.
- (h) Scheduling canine-related activities outside of the Adult Division, including outside agency requests.
- (i) Ensuring the canine team is scheduled for regular training to maximize capabilities.

327.5 REQUESTS FOR THE CANINE TEAM

The use of a canine should be considered when planning to search for a firearm, suspected narcotics, and whenever practicable when conducting field compliance checks. Probation staff are encouraged to request the use of a canine. Requests for the canine team from outside the Adult Division or from employees other than the juvenile facility superintendent shall be reviewed by the employee's direct supervisor and the canine supervisor. Officers within the Adult Division and the juvenile facility superintendent may request the use of a canine during the handler's normal working hours for searches as needed by contacting the handler or the canine supervisor directly.

327.5.1 OUTSIDE AGENCY REQUEST

All requests for canine assistance from outside agencies must be approved by the canine supervisor and are subject to the following:

- (a) The canine team shall not be used for any assignment that is not consistent with this policy.
- (b) The canine handler shall have the authority to decline a request for any specific assignment that he/she deems unsuitable.
- (c) Calling out the canine team when off-duty requires prior authorization from the Chief Probation Officer or his/her designee and is discouraged.
- (d) It shall be the responsibility of the canine handler to coordinate operations with agency personnel in order to minimize the risk of unintended injury.
- (e) It shall be the responsibility of the canine handler to complete all necessary reports or as directed.
- (f) Outside agency requests should not compromise the ability of the canine team to meet its primary agency objectives, or require the use of overtime unless authorized by the Chief Probation Officer or his/her designee.

327.5.2 PUBLIC DEMONSTRATIONS

All public requests for a canine team shall be reviewed and approved by the canine supervisor prior to making any resource commitment. The canine supervisor is responsible for obtaining resources

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and coordinating involvement in the demonstration to include proper safety protocols. Canine handlers shall only demonstrate the work the department canine team is trained and certified to perform.

327.5.3 RESTRICTIONS ON PROBATION CANINE USE

No person shall work with, attempt to train or attempt to perform the duties of the canine handler without the proper certification and the prior authorization of the canine supervisor and handler assigned to the canine. The canine handler shall take appropriate action to ensure that the probation canine is not subjected to taunting, teasing, or aggressive acts while on or off-duty.

The probation canine shall not be used for any off-duty employment purposes by the handler.

327.6 SEARCHES

The canine team is trained in narcotics and/or firearms detection and may be used in accordance with current law and under certain circumstances, including:

- (a) Conducting compliance searches on supervised individuals with valid search conditions, including but not limited to the search of accessible portions of buildings, the exterior grounds, vehicles, bags, or other articles/property authorized for search.
- (b) Assisting in the search for narcotics or firearms during a search warrant service.
- (c) Searching the grounds, exterior perimeter, all secure areas, including the housing units of the Mother Lode Regional Juvenile Detention Facility under the guidelines established by the superintendent, the canine supervisor, and canine handler.
- (d) Obtaining a search warrant by using a trained canine in support of probable cause.

The probation canine shall not be used to search a person for contraband.

327.6.1 REPORTING BITES, PROPERTY DAMAGE AND INJURIES

Whenever use of canine results in a bite or causes injury, a canine supervisor should be promptly notified and the injuries documented in an incident report. The injured person shall be promptly treated by emergency medical services personnel and, if appropriate, transported to an appropriate medical facility for further treatment. The deployment and injuries should also be included in any related incident or arrest report.

Any unintended bite or injury caused by a canine, whether on- or off-duty, shall be promptly reported to the canine coordinator. Unintended bites or injuries caused by a canine should be documented in an administrative report, not in a canine use report.

If an individual alleges an injury, either visible or not visible, a supervisor shall be notified and both the individual's injured and uninjured areas shall be photographed as soon as practicable after first tending to the immediate needs of the injured party. Photographs shall be retained as evidence in accordance with current department evidence procedures. The photographs shall be retained until the criminal proceeding is completed and the time for any related civil proceeding has expired.

Canines used by law enforcement agencies are generally exempt from impoundment and reporting requirements. However, the canine shall be made available for examination at any

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reasonable time if requested by the local health department. The canine handler shall also notify the local health department if the canine exhibits any abnormal behavior after a bite (Health and Safety Code § 121685).

327.6.2 GENERAL GUIDELINES FOR CONDUCTING A CANINE SEARCH

Prior to use of a canine to search for drugs and/or weapons, the canine handler and/or the supervisor on-scene should carefully consider all pertinent information reasonably available at the time. The information should include, but is not limited to:

- (a) The nature and seriousness of any suspected violations, prior criminal behavior, and the risk level of the involved offenders.
- (b) Whether violence or weapons were used or are anticipated.
- (c) Whether there are infants, small children, or pets present in the areas to be searched.
- (d) The residence or area to be searched must be secured prior to the entry of the canine and handler.
- (e) The canine handler should make every reasonable effort to communicate and coordinate with other involved officers to minimize the risk of injuries and damage to property.
- (f) The canine handler should visually inspect the areas to be searched for any potential hazards prior to initiating the search.
- (g) Specific areas where the canine alerts to contraband will be pointed out by the canine handler to assisting officer(s) for a thorough search, or the areas to be searched will be documented by the handler for a thorough search after the canine has been secured in the handler's vehicle.
- (h) All members of the search team shall be prepared to take direction from the handler in order to ensure safe and secure use of the canine.
- (i) Typically, it will be the assisting or requesting officer's responsibility to seize, record and take control of any contraband that is located, and not the handler's responsibility.
- (j) Should drug and/or weapons be seized, the canine handler will provide a supplemental report to the primary officer or lead agency.
- (k) The canine handler will complete a written report in the event there is any property damage or injury to a person directly related to the use of the canine. If possible any damaged property or injuries will be digitally photographed at the scene and included as attachment exhibits to the written reports.

Ultimately, it is the canine handler's responsibility to evaluate each situation and determine whether the use of a canine is appropriate and reasonable. The canine handler shall have the authority to decline the use of the canine or to terminate a canine search whenever he/she deems the situation to be unsuitable, unsafe or outside the canine team's scope of training.

327.7 NON-APPREHENSION GUIDELINES

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327.7.1 BOMB/EXPLOSIVE DETECTION

The probation canine shall not be used when a bomb or other explosive device is suspected or a suspected bomb or explosive device is located. The canine handler shall secure the canine and notify the appropriate law enforcement agency requesting assistance in such circumstances.

327.8 HANDLER SELECTION

The Chief Probation Officer shall have sole discretion with regards to assignment of the canine handler position. The ideal candidate would possess qualifications which include:

- (a) A Deputy Probation Officer II or Senior Probation Officer, An officer who is currently off probation, successful completion of the field training officer program, proficiency in police radio use, and experience with field supervision.
- (b) Residing in an adequately fenced, single-family residence (minimum 5-foot high fence with locking gates).
- (c) Using a garage or designated parking spot off the street that can accommodate a canine vehicle inconspicuously.
- (d) Live within Tuolumne County.
- (e) Agreeing to be assigned to the position for a minimum of three years.
- (f) Other relevant training, professional experiences, and circumstances may be substituted at the discretion of the Chief Probation Officer.

327.9 HANDLER RESPONSIBILITIES

The canine handler shall ultimately be responsible for the health and welfare of the canine and shall ensure that the canine receives proper nutrition, grooming, training, medical care, affection and living conditions. The cost of food, medical care, and other required equipment for the canine will be paid for by the Department. The handler may use his Department issued credit card to make authorized purchases for the canine, and the handler shall submit credit card receipts to the Business Manager with a brief description of the purchases.

The canine handler will be responsible for the following:

- (a) Except as required during appropriate deployment, the handler shall not expose the canine to any foreseeable and unreasonable risk of harm.
- (b) The handler shall maintain all department equipment under his/her control in a clean and serviceable condition.
- (c) When not in service, the handler shall maintain the canine vehicle in a garage location, away from public view, and prevent it from being at risk of vandalism or theft.
- (d) When a handler is off-duty for an extended number of days, the assigned canine vehicle should be stored at the Tuolumne County Probation Department facility or the Mother Lode Regional Juvenile Detention Facility, facility unless prior approval to store the canine vehicle in an alternative location is obtained.

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- (e) Handlers shall permit the canine supervisor to conduct spontaneous on-site inspections of affected areas of their homes as well as their canine vehicles to verify that conditions and equipment conform to this policy.
- (f) Any changes in the living status of the handler that may affect the lodging or environment of the canine shall be reported to the canine coordinator as soon as possible.
- (g) When off-duty, the canine shall be in a kennel provided by the County at the home of the handler. When a canine is kenneled at the handler's home, the gate shall be secured with an adequate locking mechanism to prevent the canine from fleeing. When off-duty, the canine may be let out of the kennel while under the direct control of the handler.
- (h) The canine should be permitted to socialize in the home with the handler's family for short periods of time and under the direct supervision of the handler.
- (i) Under no circumstances will the canine be lodged at another location unless approved by prior to lodging the canine in an alternative location.
- (j) The handler should avoid vacation requests in excess of seven continuous days in order to prevent the canine from receiving necessary training, and to minimize the need to kennel the canine. The handler may receive prior authorization to vacation with the canine from the supervisor in certain circumstances, but it will be handler's responsibility to demonstrate to the supervisor how the canine will be cared for appropriately while vacationing with the handler.
- (k) When off-duty, the handler shall not involve the canine in any law enforcement activity or official conduct unless approved in advance by the canine supervisor.
- (l) Whenever a canine handler is off-duty for an extended number of days, it may be necessary to temporarily relocate the canine. In those situations, the handler shall give reasonable notice to the canine supervisor so that appropriate arrangements can be made.

327.9.1 CANINE IN PUBLIC AREAS

The canine should be kept on a leash when in areas that allow access to the public. Exceptions to this rule would include specific law enforcement operations for which the canine is trained.

- (a) A canine shall not be left unattended in any area to which the public may have access.
- (b) When the canine vehicle is left unattended, all windows and doors shall be secured in such a manner as to prevent unauthorized access to the dog. The handler shall also ensure that the unattended vehicle remains inhabitable for the canine.

327.10 HANDLER COMPENSATION

The canine handler shall be available for call-out under conditions specified by the Chief Probation Officer.

The canine handler shall be compensated for time spent in the care, feeding, grooming and other needs of the canine in accordance with the Fair Labor Standards Act (FLSA), and according to the terms of the collective bargaining agreement memorandum of understanding (29 USC § 207).

Canines

327.11 CANINE INJURY AND MEDICAL CARE

In the event that a canine is injured, or there is an indication that the canine is not in good physical condition, the injury or condition will be reported to the canine supervisor as soon as practicable and appropriately documented.

All medical attention shall be rendered by the designated canine veterinarian, except during an emergency where treatment should be obtained from the nearest available veterinarian. All records of medical treatment shall be maintained in the canine medical file.

327.12 TRAINING

Before assignment in the field, each canine team shall be trained and certified to meet current POST guidelines the California Narcotic Canine Association (CNCA), Western States Police Canine Association (WSPCA), or other recognized and approved certification standards established for their particular skills.

The canine supervisor shall be responsible for scheduling periodic trainings with all officers that will be working with the canine team in order to familiarize them with how to conduct themselves in the presence of department canines during searches.

All canine training should be conducted while on-duty.

327.12.1 CONTINUED TRAINING

Each canine team shall thereafter be recertified to a current POST, CNCA, WSPCA or other recognized and approved certification standards on an annual basis. Additional training considerations are as follows:

- (a) The canine team should receive training as defined in the current contract with the Tuolumne County Probation Department canine training provider.
- (b) The canine handler is encouraged to engage in additional training with approval of the canine supervisor, and the current contract training vendor.
- (c) To ensure that all training is consistent, no handler, trainer or outside vendor is authorized to train to a standard that is not reviewed and approved by this department.

327.12.2 FAILURE TO SUCCESSFULLY COMPLETE TRAINING

Any canine team failing to graduate or obtain certification shall not be deployed in the field for tasks the team is not certified to perform until graduation or certification is achieved. When reasonably practicable, pending successful certification, the canine handler shall be temporarily reassigned to regular duties.

327.12.3 TRAINING RECORDS

All canine training records shall be maintained in the canine handler's and the canine's training file.

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327.12.4 TRAINING AIDS

Training aids are required to effectively train and maintain the skills of canines. Officers possessing, using or transporting controlled substances or firearms for canine training purposes must comply with federal and state requirements regarding the same. Alternatively, the Tuolumne County Probation Department may work with outside trainers with the applicable licenses or permits.

327.12.5 CONTROLLED SUBSTANCE TRAINING AIDS

Officers acting in the performance of their official duties may possess or transfer controlled substances for the purpose of narcotics-detection canine training in compliance with state and federal laws (Health & Safety Code § 11367.5; 21 USC § 823(f)).

The Chief Probation Officer or the authorized designee may authorize an officer to seek a court order to allow controlled substances seized by the Tuolumne County Probation Department to be possessed by the member or a narcotics-detection canine trainer who is working under the direction of this department for training purposes, provided the controlled substances are no longer needed as criminal evidence.

As an alternative, the Chief Probation Officer or the authorized designee may request narcotics training aids from the Drug Enforcement Agency (DEA).

These procedures are not required if the canine handler uses commercially available synthetic substances that are not controlled narcotics.

327.12.6 CONTROLLED SUBSTANCE PROCEDURES

Due to the responsibilities and liabilities involved with possessing readily usable amounts of controlled substances and the ever-present danger of the canine's accidental ingestion of these controlled substances, the following procedures shall be strictly followed:

- (a) All controlled substance training samples shall be weighed and tested prior to dispensing to the individual canine handler or trainer.
- (b) The weight and test results shall be recorded and maintained by this department.
- (c) Any person possessing controlled substance training samples pursuant to court order or DEA registration shall maintain custody and control of the controlled substances and shall keep records regarding any loss of, or damage to, those controlled substances.
- (d) All controlled substance training samples will be inspected, weighed and tested quarterly. The results of the quarterly testing shall be recorded and maintained by the canine supervisor with a copy forwarded to the dispensing agency.
- (e) All controlled substance training samples will be stored in locked, airtight and watertight cases at all times, except during training. The locked cases shall be secured in the trunk of the canine handler's assigned patrol vehicle during transport and stored in an appropriate locked container. There are no exceptions to this procedure.
- (f) The canine supervisor shall periodically inspect every controlled substance training sample for damage or tampering and take any appropriate action.

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- (g) Any unusable controlled substance training samples shall be returned to the Property and Evidence Section or to the dispensing agency.
- (h) All controlled substance training samples shall be returned to the dispensing agency upon the conclusion of the training or upon demand by the dispensing agency.

327.12.7 CANINE RETIREMENT

The determination of suitability for service shall be made by the supervisor and the Chief Probation Officer, in conjunction with input from the handler, trainer and veterinarian. Some factors to be considered, but not limited to, will be:

- (a) The present performance and level of the canine.
- (b) The length of time that the canine can be expected to remain serviceable.
- (c) The canine's health.

If the determination has been made to retire a canine from service, the handler presently assigned to the canine may be given the opportunity to assume ownership and liability of the canine. If the present handler does not desire to assume ownership of the canine, and the canine has had a previous handler, that handler may be given the opportunity to assume ownership. The Chief Probation Officer or designee will determine the final ownership of the canine.

Chapter 4 - Patrol Operations

Hazardous Material Response

400.1 PURPOSE AND SCOPE

Hazardous materials present a potential harm to employees resulting from their exposure. To comply with Title 8, California Code of Regulations, § 5194, the following is to be the policy of this department.

400.1.1 HAZARDOUS MATERIAL DEFINED

A hazardous material is a substance which by its nature, containment and reactivity, has the capability of inflicting harm during exposure; characterized as being toxic, corrosive, flammable, reactive, an irritant or strong sensitizer and thereby posing a threat to health when improperly managed.

400.2 HAZARDOUS MATERIAL RESPONSE

Employees may encounter situations involving suspected hazardous materials, such as at the scene of a traffic accident, chemical spill or fire. When employees come into contact with a suspected hazardous material, certain steps should be taken to protect themselves and citizens.

The following steps should be considered at any scene involving suspected hazardous materials:

- (a) Attempt to identify the type of hazardous substance.
- (b) Notify the Fire Department.
- (c) Provide first-aid for injured parties if it can be done safely and without contamination.
- (d) Begin evacuation of the immediate area and surrounding areas, depending on the substance. Voluntary evacuation should be considered; however, depending on the substance, mandatory evacuation may be necessary.
- (e) Notify the County Administration as soon as possible at (209) 533-5511.
- (f) In the event of suspected controlled substance manufacturing contact Sheriff's Investigation to have information relayed to the Tuolumne Narcotics Task Force (TNT).

400.3 REPORTING EXPOSURE(S)

Department personnel who believe that they have been exposed to a hazardous material shall immediately report the exposure to a supervisor. Each exposure shall be documented by the employee in an employee memorandum that shall be forwarded via chain of command to the Division Manager. Should the affected employee be unable to document the exposure for any reason, it shall be the responsibility of the notified supervisor to complete the memorandum.

Injury or illness caused or believed to be caused from exposure to hazardous materials shall be reported the same as any other on-duty injury or illness in addition to an incident report.

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Hazardous Material Response

400.3.1 SUPERVISOR RESPONSIBILITY

When a supervisor has been informed that an employee has been exposed to a hazardous material, he/she shall ensure that immediate medical treatment is obtained, the Division Manager is notified immediately and appropriate action is taken to lessen the exposure.

Hostage and Barricade Incidents

401.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidelines for situations where officers have legal cause to contact, detain or arrest a person, and the person refuses to submit to the lawful requests of the officers by remaining in a structure or vehicle and/or by taking a hostage.

The scope of this policy is not intended to address all variables that officers encounter during their initial response or when a hostage or barricade situation has developed. This policy does not require or purport to recommend specific strategies or tactics for resolution as each incident is a dynamic and rapidly evolving event.

401.1.1 DEFINITIONS

Definitions related to this policy include:

Barricade situation - An incident where a person maintains a position of cover or concealment and ignores or resists law enforcement personnel, and it is reasonable to believe the subject is armed with a dangerous or deadly weapon.

Hostage situation - An incident where it is reasonable to believe a person is:

- (a) Unlawfully held by a hostage-taker as security so that specified terms or conditions will be met.
- (b) Unlawfully held against his/her will under threat or actual use of force.

401.2 POLICY

It is the policy of the Tuolumne County Probation Department to jointly address with responding law enforcement hostage and barricade situations with due regard for the preservation of life and balancing the risk of injury, while obtaining the safe release of hostages, apprehending offenders and securing available evidence.

401.3 COMMUNICATION

The incident command structure shall be deferred to the responding law enforcement agency. Armed probation officers will assist as directed by the officer in charge.

When circumstances permit, initial responding officers should try to establish and maintain lines of communication with a barricaded person or hostage-taker. Officers should attempt to identify any additional subjects, inquire about victims and injuries, seek the release of hostages, gather intelligence information, identify time-sensitive demands or conditions and obtain the suspect's surrender.

When available, trained negotiators should respond to the scene as soon as practicable and assume communication responsibilities. Negotiators are permitted to exercise flexibility in each situation based upon their training, the circumstances presented, suspect actions or demands and the available resources.

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Hostage and Barricade Incidents

401.4 BARRICADE SITUATION

Unless circumstances require otherwise, officers handling a barricade situation should attempt to avoid a forceful confrontation in favor of stabilizing the incident by establishing and maintaining lines of communication while awaiting the arrival of specialized personnel and trained negotiators. During the interim the following options, while not all-inclusive or in any particular order, should be considered:

- (a) Ensure injured persons are evacuated from the immediate threat area if it is reasonably safe to do so. Request medical assistance.
- (b) Evacuate non-injured persons in the immediate threat area if it is reasonably safe to do so.
- (c) Attempt or obtain a line of communication and gather as much information on the subject as possible, including weapons, other involved parties, additional hazards or injuries.
- (d) Establish an inner and outer perimeter as circumstances require and resources permit to prevent unauthorized access.
- (e) Evacuate bystanders, residents and businesses within the inner and then outer perimeter as appropriate. Check for injuries, the presence of other involved subjects, witnesses, evidence or additional information.

401.5 HOSTAGE SITUATION

Officers presented with a hostage situation should attempt to avoid a forceful confrontation in favor of controlling the incident in anticipation of the arrival of specialized personnel and trained hostage negotiators. However, it is understood that hostage situations are dynamic and can require that officers react quickly to developing or changing threats. The following options while not all-inclusive or in any particular order, should be considered:

- (a) Ensure injured persons are evacuated from the immediate threat area if it is reasonably safe to do so. Request medical assistance.
- (b) Evacuate non-injured persons in the immediate threat area if it is reasonably safe to do so.
- (c) Establish an inner and outer perimeter as resources and circumstances permit to prevent unauthorized access.
- (d) Evacuate bystanders, residents and businesses within the inner and then outer perimeter as appropriate. Check for injuries, the presence of other involved subjects, witnesses, evidence or additional information.

Response to Bomb Calls

402.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidelines to assist members of the Tuolumne County Probation Department in their initial response to incidents involving explosives, explosive devices, explosion/bombing incidents or threats of such incidents. Under no circumstances should these guidelines be interpreted as compromising the safety of first responders or the public. When confronted with an incident involving explosives, safety should always be the primary consideration.

402.2 POLICY

It is the policy of the Tuolumne County Probation Department to place a higher priority on the safety of persons and the public over damage or destruction to public or private property.

402.3 RECEIPT OF BOMB THREAT

Department members receiving a bomb threat should obtain as much information from the individual as reasonably possible, including the type, placement and alleged detonation time of the device and notify their immediate supervisor.

The supervisor will notify the Sheriff's Dispatch immediately by telephoning (209) 533-5815. The supervisor will thereafter notify the Chief Probation Officer or Manager in the absence of the Chief Probation Officer.

The Chief Probation Officer or Manager will notify the County Administrative Officer or his/her representative.

The member receiving the bomb threat should ensure that the Chief Probation Officer and/or Division Manager is immediately advised and informed of the details. This will enable the Chief Probation Officer to ensure that the appropriate personnel are dispatched, and, as appropriate, the threatened location is given an advance warning.

402.4 TUOLUMNE COUNTY PROBATION DEPARTMENT FACILITIES

The decision for total, partial, or no evacuation will be made by the Sheriff's Office Incident Command Unit. Should an evacuation order be given, employees at the South Washington Street building shall report to the empty lot at the corner of Stewart and William Street. Those employees assigned to the Highway 49 building shall report to the parking lot located directly to the North at 1230 Highway 49.

402.5 CROWD CONTROL

Only authorized members with a legitimate need should be permitted access to the scene. Spectators and other unauthorized individuals should be restricted to a safe distance as is reasonably practicable given the available resources and personnel and at the direction of the Sheriff's Office.

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Response to Bomb Calls

Immigration Violations

403.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidelines to employees of the Tuolumne County Probation Department relating to immigration and interacting with federal immigration officials.

403.1.1 DEFINITIONS

The following definitions apply to this policy (Government Code § 7284.4):

Criminal immigration violation - Any federal criminal immigration violation that penalizes a person's presence in, entry, or reentry to, or employment in, the United States. This does not include any offense where a judicial warrant already has been issued.

Judicial warrant - An arrest warrant for a violation of federal criminal immigration law and issued by a federal judge or a federal magistrate judge.

403.2 POLICY

It is the policy of the Tuolumne County Probation Department that all employees make personal and professional commitments to equal enforcement of the law and equal service to the public. Confidence in this commitment will increase the effectiveness of this department in protecting and serving the entire community and recognizing the dignity of all persons, regardless of their national origin or immigration status.

403.3 VICTIMS AND WITNESSES

To encourage crime reporting and cooperation in the investigation of criminal activity, all individuals, regardless of their immigration status, must feel secure that contacting or being addressed by employees of law enforcement will not automatically lead to immigration inquiry and/or deportation. While it may be necessary to determine the identity of a victim or witness, employees shall treat all individuals equally and without regard to race, ethnicity or national origin in any way that would violate the United States or California constitutions.

403.4 IMMIGRATION INQUIRIES PROHIBITED

Officers shall not inquire into an individual's immigration status for immigration enforcement purposes (Government Code § 7284.6). An officer should only inquire about the status of an immigration hold to determine the whereabouts and/or status of a supervised person, for example to determine if an offender has been deported due to an immigration hold, and not for the purpose of immigration enforcement. In all other respects, a non-resident supervised offender shall be supervised in the same manner as a resident supervised offender.

403.5 DETENTIONS AND ARRESTS

An officer shall not detain any individual, for any length of time, for a civil violation of federal immigration laws or a related civil warrant (Government Code § 7284.6).

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Immigration Violations

An officer who has a reasonable suspicion that an individual already lawfully contacted or detained has committed a criminal violation of 8 USC § 1326(a) (unlawful reentry) that may be subject to an enhancement due to a previous conviction of an aggravated felony under USC § 1326(b) (2), may detain the person for a reasonable period of time to contact federal immigration officials to verify whether the United States Attorney General has granted the individual permission for reentry and whether the violation is subject to enhancement (Government Code § 7284.6). No individual who is otherwise ready to be released should continue to be detained only because questions about the individual's status are unresolved. Officers shall not use probation, Post Release Community Supervision, or Mandatory Supervision holds at the request of U.S. Customs Enforcement Agents to facilitate continued detention for any reason unrelated to a valid community supervision violation.

If the officer has facts that establish probable cause to believe that a person already lawfully detained has violated 8 USC § 1326(a) and the penalty may be subject to enhancement due to prior conviction for specified aggravated felonies, he/she may arrest the individual for that offense (Government Code § 7284.6).

An officer shall not detain any individual, for any length of time, for any other criminal immigration violation of federal immigration laws (Government Code § 7284.6).

An officer should notify a supervisor as soon as practicable whenever an individual is arrested for violation of 8 USC § 1326(a).

Detentions and Field Contacts

404.1 PURPOSE AND SCOPE

The purpose of this policy is to establish guidelines for conducting field contacts and pat-down searches while making contacts with supervised individuals in the field.

404.2 DEFINITIONS

Detention - Occurs when an officer intentionally, through words, actions or physical force causes an individual to reasonably believe he/she is being required to restrict his/her movement. Detentions also occur when an officer actually restrains a person's freedom of movement.

Consensual Encounter - Occurs when an officer contacts an individual but does not create a detention through words, actions or other means. In other words, a reasonable individual would believe that his/her contact with the officer is voluntary.

Field Contact – Occurs when an officer contacts a supervised person outside of the office setting for the purpose of determining compliance.

Field Interview - The brief detainment of an individual, whether on foot or in a vehicle, based on reasonable suspicion for the purposes of determining the individual's identity and resolving the officer's suspicions.

Field Photographs - Field photographs are defined as posed photographs taken of a person during a contact, detention, or arrest in the field.

Lead Officer – Officer designated as lead prior to field operations who direct staff and coordinate radio contact.

Pat-Down Search - This type of search is used by officers in the field to check an individual for weapons. It involves a thorough patting down of clothing to locate any weapons or dangerous items that could pose a danger to the officer, the detainee, or others.

Reasonable Suspicion - Occurs when, under the totality of the circumstances, an officer has articulable facts that criminal activity may be afoot and a particular person is connected with that possible criminal activity.

404.3 FIELD INTERVIEWS

While engaged in the performance of field supervision activities, probation officers may conduct Field Interviews where reasonable suspicion is present. A person, however, should not be detained longer than is reasonably necessary to resolve the officer's suspicions and in no situation should an officer conduct a vehicle stop in order to perform a field interview. In justifying the temporary detention of an individual, the officer should be able to point to specific facts which, when taken together with rational inferences, reasonably warrant the temporary detention. Such facts include, but are not limited to, the following:

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- (a) The appearance or demeanor of an individual suggests that he/she is part of a criminal enterprise or is engaged in a criminal act.
- (b) The actions of the individual suggest that he/she is engaged in a criminal activity.
- (c) The hour of day or night is inappropriate for the individual's presence in the area.
- (d) The individual's presence in the particular area is suspicious.
- (e) The individual is carrying a suspicious object.
- (f) The individual's clothing bulges in a manner that suggests he/she is carrying a weapon.
- (g) The individual is located in proximate time and place to an alleged crime.
- (h) The officer has knowledge of the individual's prior criminal record or involvement in criminal activity.

404.3.1 CONSENTUAL CONTACTS

Nothing in this policy is intended to discourage consensual contacts with members of the public. Frequent and random casual contacts with consenting individuals while officers are engaged in field supervision activities are encouraged by the Tuolumne County Probation Department to strengthen our community involvement, community awareness and problem identification.

404.4 PAT-DOWN SEARCHES

A pat-down search during field contacts may be conducted on all persons present whenever an officer reasonably believes that the person may possess an object that can be utilized as an offensive weapon or whenever the officer has a reasonable fear for his/her own safety or the safety of others. Circumstances that may establish justification for performing a pat-down search include, but are not limited to the following:

- (a) The type of crime suspected, particularly in crimes of violence where the use or threat of deadly weapons is involved.
- (b) Where more than one person must be handled by a single officer.
- (c) The hour of the day and the location or neighborhood where the contact takes place.
- (d) Prior knowledge of the person's use of force and/or propensity to carry deadly weapons.
- (e) The appearance and demeanor of the person.
- (f) Visual indications which suggest that the person is carrying a firearm or other weapon.
- (g) The age and gender of the person. Whenever possible, pat-down searches should be performed by officers of the same gender.

Medical Marijuana

405.1 PURPOSE AND SCOPE

The purpose of this policy is to provide members of this department with guidelines for investigating the acquisition, possession, transportation, delivery, production or use of marijuana under California's medical marijuana laws.

405.2 ENFORCEMENT

Although federal law does not currently permit possession of marijuana for medical use, California has created a limited defense (i.e. no penalty) for certain qualified individuals possessing small quantities of marijuana for medical use under strict conditions.

- (a) Notwithstanding California Medical Marijuana laws:
 - 1. California does not provide any exception for individuals driving under the influence of marijuana. All such cases should be handled with appropriate enforcement action (e.g., Vehicle Code § 23152, et seq.).
 - 2. Medical marijuana may not be smoked outside of a residence within 1,000 feet of a school, recreation center, youth center or in a vehicle or boat (Health & Safety Code § 11362.79).
 - 3. Use of marijuana by a person under community supervision if use is prohibited by the terms of release (Health and Safety Code § 11362.795).
- (b) Possession, cultivation and sales of marijuana in quantities beyond that which might reasonably be construed as for personal use should be handled as criminal cases with appropriate enforcement action taken pursuant to Health & Safety Code §§ 11357, 11358 and 11359.
 - 1. The amount of marijuana possessed must be consistent with the medical needs of the qualified patient or person with valid identification card.
 - 2. The quantity and form of marijuana must also be reasonably related to the patient's current medical needs.
 - (a) Absent a verifiable doctor's recommendation to exceed allotted quantities, a qualified patient or primary caregiver may possess no more than eight ounces of dried marijuana per qualified patient; or
 - (b) Maintain no more than six mature, or 12 immature marijuana plants per qualified patient (Health & Safety Code § 11362.77(a)(b)).
- (c) In any case involving the possession or cultivation of marijuana, the handling deputy should inquire whether the individual is claiming that the marijuana is for medicinal purposes.
 - 1. If no such claim is made, the deputy should proceed with normal enforcement action.
 - 2. If a claim of medicinal use is made, the deputy should proceed as outlined below.

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Medical Marijuana

405.3 MEDICINAL USE CLAIMS

In order to qualify for a medicinal marijuana defense, any individual making such a claim must affirmatively establish the following information. If the individual cannot or will not provide all of the required information, the deputy should note such fact in any related report and proceed with appropriate enforcement action.

405.4 RETURN OF MARIJUANA

Regardless of the prosecution status or disposition of any related criminal case, this department will not be responsible for the return of any marijuana seized as evidence except as may be required by a valid court order (Cal. Health and Safety Code § 11473.5 and 21 U.S.C. § 885(d)).

Foot Pursuit Policy

406.1 PURPOSE AND SCOPE

Foot pursuits are inherently dangerous and require common sense, sound tactics and heightened officer safety awareness. This policy sets forth guidelines to assist officers in making the decision to initiate or continue the pursuit of supervised persons on foot by balancing the objective of apprehending the supervised person with the risk of potential injury to the officer, the public or the supervised person.

406.1.1 POLICY

It is the policy of this department when deciding to initiate or continue a foot pursuit that officers must continuously balance the objective of apprehending the supervised person with the risk and potential for injury to department personnel, the public or the supervised person.

Officers are expected to act reasonably, based on the totality of the circumstances. Absent exigent circumstances, the safety of department personnel and the public should be the primary consideration when determining whether a foot pursuit should be initiated or continued. Officers must be mindful that immediate apprehension of a supervised person is rarely more important than the safety of the public and department personnel.

406.1.2 DEFINITIONS

Supervised Person – To include adults and juveniles subjected to the supervision of the probation officer including juveniles in detention status.

406.2 DECISION TO PURSUE

Officers may be justified in initiating a foot pursuit of any individual the officer reasonably believes is about to engage in, is engaging in or has engaged in criminal activity. The decision to initiate or continue such a foot pursuit, however, must be continuously re-evaluated in light of the circumstances presented at the time.

Mere flight by a person who is not suspected of criminal activity shall not serve as the sole justification for engaging in an extended foot pursuit without the development of reasonable suspicion regarding the individual's involvement in criminal activity.

Deciding to initiate or continue a foot pursuit is a decision that an officer must make quickly and under unpredictable and dynamic circumstances. It is recognized that foot pursuits potentially place department personnel and the public at significant risk. Therefore, no officer or supervisor shall be subjected to discipline for terminating or deciding not to engage in a foot pursuit when the perceived risks are based on reasonable assumptions.

If circumstances permit, surveillance and containment are generally the safest tactics for apprehending fleeing persons. In deciding whether to initiate or continue a foot pursuit, an officer should continuously consider reasonable alternatives to pursuit based upon the circumstances and resources available, such as the following:

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- (a) Containment of the area.
- (b) Canine search.
- (c) Saturation of the area with law enforcement personnel.
- (d) Apprehension at another time is recommended when information is available that would likely allow for later apprehension of the supervised person, unless the need to immediately apprehend the supervised person does not reasonably appear to outweigh the risk of continuing the pursuit.

406.3 GUIDELINES FOR FOOT PURSUIT

Unless the officer reasonably believes that exigent circumstances exist (e.g. a serious threat to the safety of personnel or members of the public), officers should consider alternatives to engaging in or continuing a foot pursuit under the following conditions:

- (a) When directed by a supervisor to terminate the foot pursuit. Such an order shall be considered mandatory.
- (b) When the officer is acting alone.
- (c) When two or more officers become separated, lose visual contact with one another, or obstacles separate them to the degree that they cannot immediately assist each other should a confrontation take place. In such circumstances, it is generally recommended that a single officer keep the supervised person in sight from a safe distance and coordinate the containment effort.
- (d) The officer is unsure of his/her location and direction of travel.
- (e) When pursuing multiple supervised persons and the pursuing officers do not reasonably believe that they would be able to control the situation should a confrontation occur.
- (f) When the physical condition of the officers renders them incapable of controlling the supervised person if apprehended.
- (g) When the officer loses radio contact with Dispatch or with backup officers.
- (h) When the supervised person enters a building, structure, confined space or a wooded or otherwise isolated area and there are insufficient officers to provide backup and containment. The primary officer should consider discontinuing the pursuit and coordinating containment pending the arrival of sufficient officers.
- (i) The officer becomes aware of unanticipated or unforeseen circumstances that unreasonably increase the risk to officers or the public.
- (j) The officer reasonably believes that the danger to the pursuing officers or public outweighs the objective of immediate apprehension.
- (k) The officer loses possession of his/her firearm or other essential equipment, or is not properly equipped to engage in a foot pursuit.

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- (l) The officer or a third party is injured during the pursuit, requiring immediate assistance, and there are no other emergency personnel available to render assistance.
- (m) The supervised person's location is no longer definitely known.
- (n) It reasonably appears that there is no immediate threat to department personnel or the public if the suspect is not immediately apprehended.
- (o) The officer's ability to safely continue the pursuit is impaired by inclement weather, darkness or other conditions.

406.4 RESPONSIBILITIES IN FOOT PURSUITS

406.4.1 INITIATING OFFICER RESPONSIBILITIES

Unless relieved by another officer or a supervisor, the initiating officer shall be responsible for coordinating the progress of the pursuit. When acting alone and when practicable, the initiating officer should not attempt to overtake and confront the supervised person but should attempt to keep them in sight until sufficient officers are present to safely apprehend the supervised person.

Early communication of available information from the involved officers is essential so that adequate resources can be coordinated and deployed to bring a foot pursuit to a safe conclusion. Officers initiating a foot pursuit should broadcast the following information as soon as it becomes practicable and available:

- (a) Call number
- (b) Location and direction of travel
- (c) Reason for the foot pursuit
- (d) Number of suspects and description
- (e) Whether the suspect is known or believed to be armed

Officers should be mindful that radio transmissions made while running may be difficult to understand and may need to be repeated.

Absent extenuating circumstances, any officer unable to promptly and effectively broadcast this information should terminate the pursuit. If the foot pursuit is discontinued for any reason, immediate efforts for containment should be established and alternatives considered based upon the circumstances and available resources.

When a foot pursuit terminates, the officer will notify Dispatch of his/her location and the status of the pursuit termination (e.g., suspect in custody, lost sight of suspect), and will direct further actions as reasonably appear necessary.

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406.4.2 ASSISTING OFFICER RESPONSIBILITIES

Any officer who is in a position to intercept a fleeing suspect or who can assist the primary officer with the apprehension of the suspect, shall act reasonably and in accordance with department policy, based upon available information and his/her own observations.

406.4.3 RESPONDING FIRST LINE LAW ENFORCEMENT AGENCY

Upon becoming aware of a foot pursuit, the officer shall make every reasonable effort to ascertain sufficient information to request assistance and to take command, control and coordination of the foot pursuit. The supervisor should respond to the area whenever possible; the supervisor does not, however, need not be physically present to exercise control over the pursuit. The supervisor shall continuously assess the situation in order to ensure the foot pursuit is conducted within established department guidelines.

The supervisor shall terminate the foot pursuit when the danger to pursuing officers or the public appears to unreasonably outweigh the objective of immediate apprehension of the suspect.

Upon apprehension of the suspect, the supervisor shall promptly proceed to the termination point to direct the post-pursuit activity.

406.5 REPORTING

The initiating officer shall complete the appropriate incident reports documenting, at minimum, the following:

- (a) The reason for initiating the foot pursuit.
- (b) The identity of involved personnel.
- (c) The course and approximate distance of the pursuit.
- (d) Whether a suspect was apprehended as well as the means and methods used.
 - 1. Any use of force shall be reported and documented in compliance with the Department Use of Force Policy.
- (e) Any injuries or property damage.

Assisting officers taking an active role in the apprehension of the suspect shall complete supplemental reports as necessary or as directed.

In any case in which a suspect is not apprehended and there is insufficient information to warrant further investigation, a supervisor may authorize that the initiating officer need not complete a formal report.

Homeless Persons

407.1 PURPOSE AND SCOPE

The purpose of this policy is to ensure that personnel understand the needs and rights of the homeless and to establish procedures to guide officers during all contacts with the homeless, whether consensual or for enforcement purposes. The Tuolumne County Probation Department recognizes that members of the homeless community are often in need of special protection and services. The Tuolumne County Probation Department will address these needs in balance with the overall mission of this department. Therefore, officers will consider the following when serving the homeless community.

407.1.1 POLICY

It is the policy of the Tuolumne County Probation Department to provide probation services to all members of the community, while protecting the rights, dignity and private property of the homeless. Homelessness is not a crime and members of this department will not use homelessness solely as a basis for detention or probation related contact.

407.2 FIELD CONTACTS

Nothing in this policy is meant to dissuade an officer from taking reasonable enforcement action when facts support a reasonable suspicion of non-compliant behavior or criminal activity. However, when encountering a homeless person who has committed a minor technical violation or non-violent misdemeanor and continued freedom is not likely to result in a continuation of the offense or a breach of the peace, officers are encouraged to consider long-term solutions to problems that may relate to the homeless, such as shelter referrals and counseling in lieu of physical arrest.

407.3 PERSONAL PROPERTY

The personal property of homeless persons must not be treated differently than the property of other members of the public. Officers should use reasonable care when handling, collecting and retaining the personal property of homeless persons and should not destroy or discard the personal property of a homeless person.

When a homeless person is arrested or otherwise removed from a public place, officers should make reasonable accommodations to permit the person to lawfully secure his/her personal property.

407.4 MENTAL ILLNESS AND MENTAL IMPAIRMENT

Some homeless persons may suffer from a mental illness or a mental impairment. Officers do not have authority to detain a homeless person under a mental illness commitment. Should an officer suspect a homeless person is experiencing a mental health crisis they are encouraged to contact law enforcement for an evaluation.

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407.5 ECOLOGICAL ISSUES

Sometimes homeless encampments can impact the ecology and natural resources of the community and may involve criminal offenses beyond mere littering. Officers are encouraged to notify other appropriate agencies or departments when a significant impact to the environment has or is likely to occur.

Building Access

408.1 PURPOSE AND SCOPE

The purpose of this policy is to control access to the Probation Department employee work areas and to be able to identify non-employees who are authorized to be in employee work areas.

408.2 COUNTY EMPLOYEES

The following persons have essentially unlimited access to Probation Department employee work areas other than secure records and the evidence storage area:

- A. Probation Department employees.
- B. Other county employees whose official duties require admittance in the building.

408.3 NON-COUNTY EMPLOYEES AND FAMILY MEMBERS

The following persons have access to Probation Department work areas while on official business or with department employees, but must check in with the receptionist upon entering the building:

- (a) Private sector agency representatives and private practitioners who contract with or routinely provide services to the Department.
- (b) Family members of department employees.

408.4 RESTRICTED PERSONS

All persons not listed in the preceding sections may only enter the Probation Department employee work areas utilizing the following procedure:

- A. An employee will meet the visitor at the main reception desk.
- B. The receptionist will log the name, date, time.
- C. Upon completion of the visit, the employee will escort the visitor when exiting the secure area.

Public Recording of Law Enforcement Activity

409.1 PURPOSE AND SCOPE

This policy provides guidelines for handling situations in which members of the public photograph or audio/video record law enforcement actions and other public activities that involve members of this department. In addition, this policy provides guidelines for situations where the recordings may be evidence.

409.2 POLICY

The Tuolumne County Probation Department recognizes the right of persons to lawfully record members of this department who are performing their official duties. Members of this department will not prohibit or intentionally interfere with such lawful recordings. Any recordings that are deemed to be evidence of a crime or relevant to an investigation will only be collected or seized lawfully.

Officers should exercise restraint and should not resort to highly discretionary arrests for offenses such as interference, failure to comply or disorderly conduct as a means of preventing someone from exercising the right to record members performing their official duties.

409.3 RECORDING LAW ENFORCEMENT ACTIVITY

Members of the public who wish to record law enforcement activities are limited only in certain aspects.

- (a) Recordings may be made from any public place or any private property where the individual has the legal right to be present.
- (b) Beyond the act of photographing or recording, individuals may not interfere with the law enforcement activity. Examples of interference include, but are not limited to:
 - 1. Tampering with a witness or suspect.
 - 2. Inciting others to violate the law.
 - 3. Being so close to the activity as to present a clear safety hazard to the officers.
 - 4. Being so close to the activity as to interfere with an officer's effective communication with a suspect or witness.
- (c) The individual may not present an undue safety risk to the officers, him/herself or others.

409.4 OFFICER RESPONSE

Officers should promptly request a supervisor respond to the scene whenever it appears that anyone recording activities may be interfering with an investigation or it is believed that the recording may be evidence. If practicable, officers should wait for the supervisor to arrive before taking enforcement action or seizing any cameras or recording media.

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Whenever practicable, officers or supervisors should give clear and concise warnings to individuals who are conducting themselves in a manner that would cause their recording or behavior to be unlawful. Accompanying the warnings should be clear directions on what an individual can do to be compliant; directions should be specific enough to allow compliance. For example, rather than directing an individual to clear the area, an officer could advise the person that he/she may continue observing and recording from the sidewalk across the street.

If an arrest or other significant enforcement activity is taken as the result of a recording that interferes with law enforcement activity, officers shall document in a report the nature and extent of the interference or other unlawful behavior and the warnings that were issued.

409.5 SUPERVISOR RESPONSIBILITIES

A supervisor should respond to the scene when requested or any time the circumstances indicate a likelihood of interference or other unlawful behavior.

The supervisor should review the situation with the officer and:

- (a) Request any additional assistance as needed to ensure a safe environment.
- (b) Take a lead role in communicating with individuals who are observing or recording regarding any appropriate limitations on their location or behavior. When practical, the encounter should be recorded.
- (c) When practicable, allow adequate time for individuals to respond to requests for a change of location or behavior.
- (d) Ensure that any enforcement, seizure or other actions are consistent with this policy and constitutional and state law.
- (e) Explain alternatives for individuals who wish to express concern about the conduct of Department members, such as how and where to file a complaint.

409.6 SEIZING RECORDINGS AS EVIDENCE

Officers should not seize recording devices or media unless (42 USC § 2000aa):

- (a) There is probable cause to believe the person recording has committed or is committing a crime to which the recording relates, and the recording is reasonably necessary for prosecution of the person.
 - 1. Absent exigency or consent, a warrant should be sought before seizing or viewing such recordings. Reasonable steps may be taken to prevent erasure of the recording.
- (b) There is reason to believe that the immediate seizure of such recordings is necessary to prevent serious bodily injury or death of any person.
- (c) The person consents.
 - 1. To ensure that the consent is voluntary, the request should not be made in a threatening or coercive manner.

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2. If the original recording is provided, a copy of the recording should be provided to the recording party, if practicable. The recording party should be permitted to be present while the copy is being made, if feasible.

Recording devices and media that are seized will be submitted within the guidelines of the Property and Evidence Policy.

Suspicious Activity Reporting

410.1 PURPOSE AND SCOPE

This policy provides guidelines for reporting and investigating suspicious and criminal activity.

410.1.1 DEFINITIONS

Definitions related to this policy include:

Involved party - An individual who has been observed engaging in suspicious activity, as defined in this policy, when no definitive criminal activity can be identified, thus precluding the person's identification as a suspect.

Suspicious activity - Any reported or observed activity that an employee reasonably believes may have a nexus to any criminal act or attempted criminal act, or to foreign or domestic terrorism. Race, ethnicity, national origin or religious affiliation should not be considered as factors that create suspicion (although these factors may be used as specific suspect descriptions).

410.2 POLICY

The Tuolumne County Probation Department recognizes the need to protect the public from criminal conduct and acts of terrorism and shall lawfully collect, maintain and disseminate information regarding suspicious activities, while safeguarding civil liberties and privacy protections.

410.3 REPORTING AND INVESTIGATION

Any department employee receiving information regarding suspicious activity should take any necessary immediate and appropriate action, including a request for tactical response or immediate notification of specialized entities, when applicable. Any employee who receives such information should ensure that it is passed on to a manager in a timely manner.

If the suspicious activity is not directly related to a reportable crime, the employee should prepare a written statement and include information about involved parties and the circumstances of the incident and submit to their supervisor.

Medical Aid and Response

411.1 PURPOSE AND SCOPE

This policy recognizes that employees may encounter persons who appear to be in need of medical aid and establishes a response to such situations.

411.2 POLICY

It is the policy of the Tuolumne County Probation Department that all officers and other designated employees be trained to provide emergency medical aid and to facilitate an emergency medical response.

411.3 FIRST RESPONDING EMPLOYEE RESPONSIBILITIES

Whenever practicable, employees should take appropriate steps to provide initial medical aid (e.g., first aid, CPR and use of an automated external defibrillator (AED)) in accordance with their training and current certification levels. This should be done for those in need of immediate care and only when the employee can safely do so.

Employees should follow universal precautions when providing medical aid, such as wearing gloves and avoiding contact with bodily fluids, consistent with the Communicable Diseases Policy. Employees should use a barrier or bag device to perform rescue breathing.

When requesting EMS, the employee should provide 9-1-1 or Sheriff's Dispatch with information for relay to EMS personnel in order to enable an appropriate response, including:

- (a) The location where EMS is needed.
- (b) The nature of the incident.
- (c) Any known scene hazards.
- (d) Information on the person in need of EMS, such as:
 - 1. Signs and symptoms as observed by the employee.
 - 2. Changes in apparent condition.
 - 3. Number of patients, sex and age, if known.
 - 4. Whether the person is conscious, breathing and alert, or is believed to have consumed drugs or alcohol.
 - 5. Whether the person is showing signs or symptoms of excited delirium or other agitated chaotic behavior.

Employees should stabilize the scene whenever practicable while awaiting the arrival of EMS.

Employees should not direct EMS personnel whether to transport the person for treatment.

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411.4 TRANSPORTING ILL AND INJURED PERSONS

Except in extraordinary cases where alternatives are not reasonably available, employees should not transport persons who are unconscious, who have serious injuries or who may be seriously ill. EMS personnel should be called to handle patient transportation.

Officers should search any person who is in custody before releasing that person to EMS for transport.

An officer should accompany any person in custody during transport in an ambulance when requested by EMS personnel, when it reasonably appears necessary to provide security, when it is necessary for investigative purposes or when so directed by a supervisor.

411.5 PERSONS REFUSING EMS CARE

If a person who is not in custody refuses EMS care or refuses to be transported to a medical facility, an officer shall not force that person to receive care or be transported. However, employees may assist EMS personnel when EMS personnel determine the person lacks mental capacity to understand the consequences of refusing medical care or to make an informed decision and the lack of immediate medical attention may result in serious bodily injury or the death of the person.

If an officer believes that a person who is in custody requires EMS care and the person refuses, he/she should encourage the person to receive medical treatment. The officer may also consider contacting a family member to help persuade the person to agree to treatment or who may be able to authorize treatment for the person.

If the person still refuses, the officer will require the person to be transported to the nearest medical facility. In such cases, the officer should consult with a supervisor prior to the transport.

Employees shall not sign refusal-for-treatment forms or forms accepting financial responsibility for treatment.

411.5.1 SICK OR INJURED ARRESTEE

If an arrestee appears ill or injured, or claims illness or injury, he/she should be medically cleared prior to booking. If the officer has reason to believe the arrestee is feigning injury or illness, the officer should contact a supervisor, who will determine whether medical clearance will be obtained prior to booking.

If the jail or detention facility refuses to accept custody of an arrestee based on medical screening, the officer should note the name of the facility person refusing to accept custody and the reason for refusal, and should notify a supervisor to determine the appropriate action.

Arrestees who appear to have a serious medical issue should be transported by ambulance. Officers shall not transport an arrestee to a hospital without a supervisor's approval.

411.6 MEDICAL ATTENTION RELATED TO USE OF FORCE

Specific guidelines for medical attention for injuries sustained from a use of force may be found in the Use of Force, Handcuffing and Restraints, and Control Devices and Techniques policies.

Chapter 5 - Juvenile Transportation Operations

Juvenile Transportation

500.1 PURPOSE AND SCOPE

The purpose of this policy is to establish policies and procedures for Probation Department employees in the performance of their duties of transporting minors. While this manual covers a wide range of topics it cannot predict all situations that might be encountered. A copy of this policy shall be kept in each caged transport vehicle at all times. Failure to abide by all policies and procedures outlined in this manual may result in disciplinary action.

500.2 TRAFFIC OFFICER DEPLOYMENT

- (a) Employees involved with the transportation of minors can expect to receive requests for driving 24 hours a day, seven days a week, including all holidays. Relief employees shall notify the Probation Services Manager in advance if they are unavailable for transport.
- (b) Juveniles shall be transported by a driver of the same gender whenever possible. If a driver of the same sex as the juvenile is not available, a second driver shall accompany the minor and first driver. Transport drivers are arranged by the Probation Services Manager, a Juvenile Probation Officer or the on-call probation officer.
- (c) Drivers are prohibited from transporting unauthorized passengers in a county vehicle. Authorized passengers are: detained juveniles, probation officers and other county employees (as authorized by a supervisor). Failure to comply with this rule will result in disciplinary action.
- (d) Drivers shall not purchase or provide food or beverage to a detained juvenile while in a transport vehicle (unless medically necessary and prior approval received). All meal arrangements shall be made by the probation officer prior to leaving the Department or the detention facility.
- (e) Juveniles shall wear a shoulder and lap seat belt at all times. Juveniles detained and in hand and leg restraints shall be placed in the back seat of the vehicle.
- (f) Juveniles who are not detained should not be placed in restraints. Check with a manager or probation officer assigned to the Juvenile Unit to determine if the juvenile can be transported without being restrained. Juveniles being released from juvenile hall at the end of their commitment are considered detained until they are released to a probation officer or the juvenile's parent or guardian.
- (g) The juvenile shall use a bathroom before entering the transport vehicle. If an emergency occurs and the juvenile must use a bathroom during transport, drivers may stop only at the nearest law enforcement office. Notify Sheriff's dispatchers of your location. A listing of addresses and telephone numbers of law enforcement agencies along the designated driving routes is located in the glove box of each transport vehicle.
- (h) At no point during the transport shall the back windows be rolled down. If a juvenile is complaining they need air, drivers may roll down the front windows to allow for air flow.

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- (i) When drivers arrive at the Tuolumne County Probation Department with a detained juvenile, they shall call a probation officer to remove the juvenile from the vehicle.
- (j) If you are involved in any type of emergency/critical incident (i.e., injuries, accident, escape), once the situation is stabilized, notify a Division Manager or the Chief Probation Officer.

500.2.1 VEHICLES

- (a) Pre and Post Trip Inspections: All drivers shall thoroughly inspect each vehicle before and after transporting a juvenile. Check the outside of the vehicle for any apparent body damage. Check the condition of the tires for wear and appropriate tire pressure on working and spare tires, and report any problems to the Probation Business Manager or the Vehicle Coordinator. Carefully inspect the rear seat for any contraband, weapons or other items. Check emergency supplies and report if anything is missing or damaged. If you find anything suspicious, please remove it and report it to the Probation Business Manager, Supervising Probation Officer or a Division Manager. You may be asked to fill out a report. Please clear all debris from the car at the end of the transport.
- (b) Fueling: All vehicles shall be refueled upon completion of your transport. Do not fuel a vehicle with a juvenile inside unless it is an emergency. The fueling station is W.H. Breshears, a CFN subsidiary, located off the Sanguinetti Loop Rd. In your vehicle record book will be a CFN fueling card with pin number. Clean windows and check tire pressure after fueling. In the event you need fuel while you are out of town, you will have a county-issued credit card or you may check CFN locations prior to your departure for the location of stations along your route.
- (c) Vehicle Record Book: All vehicles have a binder located in the locked cabinet in the Juvenile Detention Room. In the binder you will find the car keys and credit cards.

500.2.2 COMMUNICATION

- (a) Radios: All drivers shall log onto and use the Tuolumne County communications radio system according to the Probation Radio Use Policy and Procedure. All drivers are required to complete radio use training prior to be assigned their first transport. Radios must be tested prior to departure. At the end of the transport, log off the communications system and turn off the radio in the transport vehicle. Refer to the Probation Radio Use Policy and Procedure Manual for proper radio protocols.
- (b) Cell Phones: All Drivers shall take a departmental cell phone while on transport duty. The phones are located in the closet where the restraint devices are kept. Additional cell phones are available for use if needed. Please contact the Probation Business Manager or a Probation Officer assigned to the Juvenile Unit if there are no cell phones in the closet. Note the cell phone number and your estimated time of arrival back at the Probation Department in the Cell Phone Log book. A charging cord is located in the center console or glove box of each transport vehicle. You may charge the cell phone for use during a transport if the battery runs low. Turn the cell phone off when you check it back in at the end of your transport.

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Probation Department cell phones are not to be used for personal reasons (at any time) unless exigent circumstances exist and the transport is significantly delayed.

500.2.3 UNIFORMS

- (a) All drivers shall wear a shirt with the Probation Department logo on the front, and carry their Tuolumne County picture identification card while performing transportation duties. These items identify drivers to outside agencies.
- (b) All drivers shall wear long pants that are neat and clean.
- (c) Skirts and shorts are not allowed.
- (d) Wear functional close-toed shoes.
- (e) Flip-flops and high heels are not allowed.

500.2.4 ROUTES

- (a) Juvenile Hall: Drivers shall transport juveniles to and from juvenile halls on the designated route. Drivers shall call the juvenile hall thirty minutes prior to arrival to ensure the hall staff will have the juvenile ready for transportation. Drivers may deviate from the designated routes only in the event of a weather or traffic emergency with prior approval. Authorization to deviate from the designated route must be approved by a Supervising Probation Officer, Division Manager, or if these managers are not available, the Chief Probation Officer. Failure to secure permission to take an alternate route prior to doing so, may result in disciplinary action.
- (b) Maps: Please make sure you have a map to guide you to a non-familiar location. If you need a map, ask for one from the Probation Business Manager, Supervising Probation Officer assigned to the Juvenile Unit or the Deputy Probation Officer who supervises the juvenile you are transporting.
- (c) GPS Units: Global Positioning System (GPS) units are kept in a closet in the Juvenile Detention Room. Drivers may use a GPS unit during a transport to assist in locating unfamiliar addresses. Please turn the unit off after use and return to closet.

500.2.5 EMERGENCIES

- (a) Medical: In the event of a medical emergency, notify Sheriff's dispatchers of your location and emergency. Identify yourself and advise the dispatchers you have a detained juvenile in custody. Render CPR and/or basic first aid to the juvenile if necessary. A small first aid kit, and other emergency supplies are inside a plastic box in the trunk of each transport vehicle. Notify one of the following personnel of the emergency: Division Manager, Supervising Probation Officer, or the Probation Business Manager if the emergency occurs during regular business hours. Contact the On-Call Probation Officer (209-352-6942) if the emergency occurs after hours, weekends or holidays.

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- (b) **Mechanical Breakdowns:** In the event of a mechanical problem with your vehicle, notify Sheriff's dispatchers of the problem and your location. Using your cell phone, call the Probation Business Manager, Supervising Probation Officer or Division Manager with the nature of your problem and location, if the breakdown occurs during regular business hours. If you need assistance after hours, weekends or holidays, contact the On-Call Probation Officer. If unable to use your cell phone, advise Sheriff's dispatchers to call the Probation Department at 209-533-7530 or 209-533-7521. The On-Call Probation Officer can be reached at 209-352-6942.
- (c) **Violent Behavior:** In the event a juvenile becomes combative or violent during transport, notify the Sheriff's dispatcher in the jurisdiction you are located in (i.e., Stockton €“ contact San Joaquin County Sheriff's dispatcher) of your location, the problem, and whether you need law enforcement response to provide emergency assistance. If necessary, drive to the nearest police station, and/or find a safe location to stop the vehicle. Try talking to the juvenile in a calm but firm manner. Do not put yourself in danger by entering the back seat area of the vehicle unless you feel the subject needs immediate medical attention. A map showing law enforcement offices along the driving routes are included in this manual and in the glove box of each transport vehicle. A driver may protect themselves from physical harm, however, only peace officers so designated under Penal Code 830.1 and Penal Code 830.5, are authorized to use force.
- (d) **Other Emergencies:** If you feel you are being followed or threatened during transportation, contact the Sheriff's dispatchers in the jurisdiction you are located for assistance. Proceed to the nearest law enforcement office. Maintain radio contact and update law enforcement of your location. A listing of addresses and telephone numbers of law enforcement agencies along the designated driving routes is located in the glove box of each transport vehicle. Do not confront another driver or stop the vehicle.

If a juvenile flees, drivers **shall not** pursue the juvenile. Contact law enforcement in the jurisdiction you are located in with a description of the fleeing juvenile as well as a direction of travel.

500.2.6 RESTRAINTS

- (a) **Handcuffs and Leg Restraints:** Each detained juvenile being transported to and from juvenile hall shall have their hands and feet restrained at all times. Hands shall be in handcuffs in the front through a belly chain. Legs shall be shackled with leg irons. It is the driver's responsibility to provide all restraint devices when picking up a juvenile from juvenile hall, and to properly restrain the juvenile before leaving juvenile hall. All restraints shall be double locked. At any time a detained juvenile has managed, or is attempting, to remove any of their restraints (handcuffs, belly chain, leg irons), immediately pull over to the side of the road and stop the vehicle. Advise the juvenile to stop the behavior, or in the case where a juvenile has managed to remove a restraint,

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contact law enforcement in the jurisdiction you are located in for assistance. Each vehicle is equipped with a flashlight (if the transport is during dark periods) to enable the driver to assess the situation once they have pulled off the road and the vehicle has come safely to a stop.

- (b) **Placement:** The handcuffs are placed tightly on the juvenile's wrists, through the belly chain, with enough space between the cuff and the wrist for one finger. The leg irons are best applied by having the juvenile kneel onto a chair or bench with their back to the officer. Leg irons may be placed over pants, but shall be secured tightly enough so the juvenile cannot slip out of them. Both leg irons and handcuffs shall be double locked. If a juvenile's behavior escalates and they become a danger to themselves or others, the handcuffs may be applied with the juvenile's hands behind his/her back for a reasonable period of time and only with the assistance of law enforcement personnel. Hobble restraints may also be applied with the assistance of law enforcement personnel.

500.2.7 PAYROLL, MEALS AND FORMS

- (a) **Accident Forms:** An accident form is located in the vehicle's glove box. This form is to be completed following any accident or incident in which a vehicle has sustained damage. Attach the document along with any other reports and turn them in to the Probation Business Manager or Supervising Probation Officer immediately upon returning to the Probation Department. A camera is located inside each transport vehicle, and it is the responsibility of the driver involved in the accident to document the damage to any and all vehicles involved in the accident. Cellphone pictures can also be used. After photos are taken, give the camera, or cell phone, to the Probation Business Manager or Supervising Probation Officer for retention and do not delete anything until that occurs. Employees should never admit fault or assume responsibility.
- (b) **Transportation Request Form:** The Transportation Request Form, outlining the juvenile(s) being transported, is located in the vehicle key cabinet. The form is generally filled out by a Probation Officer prior to your departure. If one is not available, there are blank copies in the desk drawer in the Juvenile Detention Room. Complete the trip starting and ending times and mileage. Note any issues on the form needing attention. Leave the completed form in the vehicle key cabinet upon your return.
- (c) **Medical Forms:** There may be times when a driver may be asked to transport a juvenile to a hospital for medical clearance. Drivers shall ensure they receive all discharge forms prior to leaving the medical facility with the juvenile. Return all forms, or copies of the forms, to the Tuolumne County Probation Department immediately upon your return. All medications for the juvenile shall be transported in the locked trunk of the vehicle and delivered with the juvenile to his/her final destination for the day. The medication shall be given to a responsible adult, a juvenile hall booking officer or a deputy probation officer.

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Juvenile Transportation

- (d) **Time Sheets:** Time sheets are located in the Juvenile Detention Room. The sheets are to remain inside the Juvenile Detention Room at all times. Make sure they are complete and signed by noon on Friday preceding payday. In addition to the county-issued time sheet, drivers must complete a Probation Department Duty Sheet for each pay period. The Duty Sheet shall be updated at the beginning and end of each transport. The exact time in and out shall be noted, as well as time in and out for meal breaks. Drivers are required by California labor laws to take a 30-minute unpaid meal break when they work more than six hours. Drivers shall not take a meal break while a juvenile is in the vehicle. In the event driver(s) are unable to take a 30-minute unpaid meal break, the driver(s) will be paid time and a half for the untaken meal break. Drivers must have authorization prior to missing a meal break. No driver shall work more than 10 hours in a 24-hour period without authorization from the Juvenile Division Manager.
- (e) **Meals:** If the transport is six hours or more, drivers are eligible to be reimbursed on a pay check for one meal only (i.e. one receipt equals one meal). The established food allowances are breakfast, up to \$10.00; lunch, up to \$11.00; and dinner, up to \$21.00. These allowances include tips. Tips shall not exceed 15 percent of the total bill. ***Drinking alcoholic beverages is prohibited***. Probation Aides are not eligible for breakfast reimbursement if they leave Tuolumne County after 8:00 a.m. Probation Aides are not eligible for a dinner reimbursement if they are scheduled to arrive back in Tuolumne County before 6:00 p.m. Probation Aides who are eligible for a meal reimbursement, shall complete the meal reimbursement section of the Duty Sheet and attach the original itemized restaurant receipt to the Duty Sheet.

500.2.8 TRANSPORTION CHECKLIST

Here is a simple check list for a smooth transport of your subject.

- Obtain the completed Transportation Request form and cell telephone.
- Search and inspect vehicle.
- Apply proper restraints (if juvenile not already shackled).
- Place juvenile(s) into the backseat of the vehicle (if they are detained) and help them fasten a seatbelt.
- Log onto the Tuolumne County Sheriff's Radio system, using appropriate protocol.
- Transport juvenile(s) according to the designated route and all other procedures. Call the hall when you are 30 minutes away, so the staff can have the juvenile being transported ready.
- Return to the Probation Department, log off the radio system, and complete appropriate paperwork and payroll forms.

Traffic Collision Reporting

501.1 PURPOSE AND SCOPE

Employees of the Tuolumne County Probation Department are referred to the [County of Tuolumne website](#) regarding countywide policies governing vehicle accident reporting.

501.2 RESPONSIBILITY

Employees are responsible for notifying a manager or the Chief Probation Officer in the event of a vehicle accident that they have been involved in.

Chapter 7 - Equipment

Department Owned and Personal Property

700.1 PURPOSE AND SCOPE

Department employees are expected to properly care for department property assigned or entrusted to them. Employees may also suffer occasional loss or damage to personal or department property while performing their assigned duty. Certain procedures are required depending on the loss and ownership of the item.

700.2 CARE OF DEPARTMENTAL PROPERTY

Employees shall be responsible for the safekeeping, serviceable condition, proper care, use and replacement of department property assigned or entrusted to them. An employee's intentional or negligent abuse or misuse of department property may lead to discipline including, but not limited to the cost of repair or replacement.

- (a) Employees shall promptly report through their chain of command, any loss, damage to, stolen, or unserviceable condition of any department issued property or equipment assigned for their use.
- (b) The use of damaged or unserviceable department property should be discontinued as soon as practical and replaced with comparable Department property as soon as available and following notice to a supervisor.
- (c) Department property shall be limited to official purposes and in the capacity for which it was designed.
- (d) Department property shall not be thrown away, sold, traded, donated, destroyed, or otherwise disposed of without proper authority.
- (e) In the event that any Department property becomes damaged or unserviceable, no employee shall attempt to repair the property without prior approval of a supervisor.
- (f) Department property shall not be stored in vehicles or other places that increase the risk of loss or theft. Some examples are shirts, clothing, badges, body armor, batons, OC spray, duty belts, cell phones, identification cards, handcuffs, firearms, keys, reports, or any other item that is department owned.

700.3 FILING CLAIMS FOR PERSONAL PROPERTY

In general, personal property lost or damaged is not subject to replacement/reimbursement by the County. However, should personal property be damaged in the line of duty employees may submit a request for consideration of reimbursement. Employees must submit to the Chief Probation Officer for consideration a written statement regarding circumstances surrounding the event in which the property was damaged and verification of replacement costs.

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Department Owned and Personal Property

700.3.1 REPORTING REQUIREMENT

A verbal report shall be made to the employee's immediate supervisor as soon as circumstances permit.

A written report shall be submitted before the employee goes off duty or within the time frame directed by the supervisor to whom the verbal report is made.

700.4 LOSS OR DAMAGE OF PROPERTY OF ANOTHER

Officers and other employees intentionally or unintentionally may cause damage to the real or personal property of another while performing their duties. Any employee who damages or causes to be damaged any real or personal property of another while performing any law enforcement or probation functions, regardless of jurisdiction, shall photograph the damage and report it as provided below.

- (a) A verbal report shall be made to the employee's immediate supervisor as soon as circumstances permit.
- (b) A written report shall be submitted before the employee goes off duty or within the time frame directed by the supervisor to whom the verbal report is made.

700.4.1 DAMAGE BY PERSON OF ANOTHER AGENCY

If employees of another jurisdiction cause damage to real or personal property belonging to the Department, it shall be the responsibility of the employee present or the employee responsible for the property to make a verbal report to his/her immediate supervisor as soon as circumstances permit. The employee shall submit a written report before going off duty or as otherwise directed by the supervisor.

These written reports, accompanied by the supervisor's written report, shall promptly be forwarded to the appropriate Division Manager.

Personal Communication Devices

701.1 PURPOSE AND SCOPE

The purpose of this policy is to establish guidelines for the use of cellular telephones and communication devices, whether issued by the Department or personally owned, while on-duty or when used for authorized work-related purposes.

This policy generically refers to all such devices as Personal Communication Devices (PCD) but is intended to include all cellular telephones, and any wireless two-way communications and/or portable Internet access devices. PCD use includes, but is not limited to, placing and receiving calls, text messaging, blogging and microblogging, e-mailing, using video or camera features, playing games and accessing sites or services on the Internet.

Department employees are further referred to the Tuolumne County Mobile Device Management Policy (available on the County website).

701.2 POLICY

The Tuolumne County Probation Department allows employees to utilize department-issued PCDs and to possess personally owned PCDs in the workplace, subject to certain limitations. Any PCD used either while on-duty or off-duty in any manner reasonably related to the business of the Department, will be subject to monitoring and inspection consistent with the standards set forth in this policy and as permitted by law.

The inappropriate use of a PCD while on-duty may impair officer safety. Additionally, employees are advised and cautioned that the use of a personally owned PCD either on-duty or after duty hours for work-related purposes may subject the employee's PCD records to Department, public, civil or criminal discovery or disclosure under applicable law and County policy, subject to applicable substantive and/or procedural legal rights of employees concerning such disclosure.

Employees who have questions regarding the application of this policy or the guidelines contained herein are encouraged to seek clarification from supervisory personnel.

701.3 PRIVACY POLICY

Employees shall have no expectation of privacy with regard to any communication made with or stored in or through PCDs issued by the Department and shall have no expectation of privacy in their location should the device be equipped with location detection capabilities. Employees also shall have no expectation of privacy with regard to any PCD communication record stored on a County network or server. The use of any Department-provided PCD, computer, Internet service, telephone service or other wireless service while on-duty is without any expectation of privacy that the employee might otherwise have in any communication, including the content of any such communication. Communications or data reception on personal, password-protected, web-based e-mail accounts and any other services are subject to monitoring if department equipment is used.

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Personal Communication Devices

In accordance with this policy, supervisors are authorized to conduct a limited administrative search of electronic files without prior notice, consent or a search warrant, on department-issued PCDs or PCD communication records stored on a County network or server.

Administrative searches can take place for work-related purposes that may be unrelated to investigations of employee misconduct and, as practicable, will be done in the presence of the affected employee. Prior to conducting any search of personally owned devices, supervisors shall consult with the Chief Probation Officer or authorized designee regarding any legal constraints or requirements. All such searches shall be fully documented in a written report. Searches conducted in regards to personnel complaints or involving employee misconduct investigations shall be done in accordance with those policies and shall include the Chief Probation Officer's consultation with the County's Security Officer.

701.4 DEPARTMENT-ISSUED PCD

Depending on an employee's assignment and the needs of the position, the Department may, at its discretion, issue a PCD. Department-issued PCDs are provided as a convenience to facilitate on-duty performance only. Such devices and the associated telephone number shall remain the sole property of the Department and shall be subject to inspection or monitoring (including all related records and content) at any time without notice and without cause.

Unless an employee is expressly authorized by the Chief Probation Officer or the authorized designee for off-duty use of the PCD, the PCD will either be secured in the workplace at the completion of the tour of duty or will be turned off when leaving the workplace.

701.5 PERSONALLY OWNED PCD

Employees may carry a personally owned PCD while on-duty, subject to the following conditions and limitations:

- (a) Carrying a personally owned PCD is a privilege, not a right.
- (b) The Department accepts no responsibility for loss of or damage to a personally owned PCD.
- (c) Employees shall promptly notify the Department in the event the PCD is lost or stolen.
- (d) The PCD and any associated services shall be purchased, used and maintained solely at the employee's expense.
- (e) The device should not be used for work-related purposes except in exigent circumstances (e.g., unavailability of radio communications). Employees will have a reduced expectation of privacy when using a personally owned PCD in the workplace and have no expectation of privacy with regard to any department business-related communication.
- (f) The device shall not be utilized to record or disclose any business-related information, including photographs, video or the recording or transmittal of any information or

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Personal Communication Devices

material obtained or made accessible as a result of employment with the Department, without the express authorization of the Chief Probation Officer or the authorized designee.

Except with prior express authorization from their supervisor, employees are not obligated or required to carry, access, monitor or respond to electronic communications using a personally owned PCD while off-duty unless on-call or the PCD is the primary number of contact for the employee. If an employee is in an authorized status that allows for appropriate compensation consistent with policy or existing collective bargaining agreements, or if the employee has prior express authorization from his/her supervisor, the employee may engage in business-related communications. Should employees engage in such approved off-duty communications or work, employees entitled to compensation shall promptly document the time worked and communicate the information to their supervisor to ensure appropriate compensation. Employees who independently document off-duty department-related business activities in any manner shall promptly provide the Department with a copy of such records to ensure accurate record keeping.

701.6 USE OF PERSONAL COMMUNICATION DEVICES

The following protocols shall apply to all PCDs that are carried while on-duty or used to conduct department business:

- (a) A PCD shall not be carried in a manner that allows it to be visible while in uniform, unless it is in an approved carrier.
- (b) All PCDs in the workplace shall be set to silent or vibrate mode.
- (c) A PCD may not be used to conduct personal business while on-duty, except for brief personal communications (e.g., informing family of extended hours). Employees shall endeavor to limit their use of PCDs to authorized break times, unless an emergency exists.
- (d) Employees may use a PCD to communicate with other personnel in situations where the use of the radio is either impracticable or not feasible. PCDs should not be used as a substitute for, as a way to avoid or in lieu of regular radio communications.
- (e) Employees are prohibited from taking pictures, video or making audio recordings or making copies of any such picture or recording media on a County issued PCD unless directly related to official department business, or, in the case of a personally owned PCD, unless both directly related to official department business and with the express advance authorization of the Chief Probation Officer or authorized designee. Disclosure of any such information to any third party through any means, without the express authorization of the Chief Probation Officer or authorized designee, may result in discipline.
- (f) Employees will not access social networking sites for any purpose that is not official department business.

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- (g) Using PCDs to harass, threaten, coerce or otherwise engage in inappropriate conduct with any third party is prohibited. Any employee having knowledge of such conduct shall promptly notify a supervisor.

701.7 SUPERVISORY RESPONSIBILITIES

Supervisors should ensure that members under their command are provided appropriate training on the use of PCDs consistent with this policy. Supervisors should monitor, to the extent practicable, PCD use in the workplace and take prompt corrective action if an employee is observed or reported to be improperly using a PCD. An investigation into improper conduct should be promptly initiated when circumstances warrant.

If, when carrying out any provision of this policy, the need to contact an employee who is off-duty arises, supervisors should consider delaying the contact, if practicable, until the employee is on-duty, as such contact may be compensable.

701.8 USE WHILE DRIVING

The use of a PCD while driving is prohibited.

Except in an emergency, employees who are operating non-emergency vehicles shall not use a PCD while driving unless the device is specifically designed and configured to allow hands-free use (Vehicle Code § 23123). Hands-free use should be restricted to business-related calls or calls of an urgent nature.

701.9 OFFICIAL USE

Employees are reminded that PCDs are not secure devices and conversations may be intercepted or overheard. Caution should be exercised while utilizing PCDs to ensure that sensitive information is not inadvertently transmitted. As soon as reasonably possible, employees shall conduct sensitive or private communications on a land-based or other department communications network.

The following situations are examples of when the use of a PCD may be appropriate:

- (a) Catastrophic disasters, such as plane crashes, earthquakes, floods, etc.
- (b) Major political or community events
- (c) Investigative stakeouts
- (d) Emergency contact with an allied agency or allied agency field unit
- (e) When immediate communication is needed and the use of the radio is not available or appropriate and other means are not readily available

Vehicle Maintenance

702.1 PURPOSE AND SCOPE

Employees are responsible for assisting in maintaining Department vehicles so that they are properly equipped, properly maintained, properly refueled and present a clean appearance.

702.2 DEFECTIVE VEHICLES

When a department vehicle becomes inoperative or is in need of repair, that vehicle shall be removed from service for repair. Proper documentation shall be promptly completed by the employee who first becomes aware of the defective condition, describing the correction needed. The paperwork shall be promptly forwarded to vehicle maintenance for repair.

702.2.1 PROCESS

- The book is removed from the rotation and given to the Probation Business Manager.
- The employee assigned to the vehicle fleet coordinates an estimate.
- Estimates are submitted to the Probation Business Manager.
- The Probation Business Manager forwards the estimate to the Chief Probation Officer for approval.

702.3 VEHICLE EQUIPMENT

Certain items shall be maintained in all department vehicles for emergency purposes and to perform routine duties.

702.3.1 CAGED/TRANSPORT VEHICLES

Staff shall inspect the transport vehicle at the beginning of the shift and ensure that the following equipment, at a minimum, is present in the vehicle:

- Road flares
- First aid kit, CPR mask
- Blanket
- Maps
- Batteries
- Flashlight
- Tire chains
- Deicers/Ice Scraper
- Spare Tire
- County Accident and Insurance Forms

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Vehicle Maintenance

- Fuel Cards
- Windshield Shade

702.3.2 DEPARTMENT VEHICLES

An employee driving department vehicles shall ensure that the minimum following equipment is present in the vehicle:

- Road flares
- First aid kit, CPR mask
- Flashlight
- Tire Chains
- Spare Tire
- County Accident and Insurance Forms
- Fuel Cards
- Windshield Shade

702.4 VEHICLE REFUELING

Absent emergency conditions or supervisor approval, employees driving any department vehicles shall not place a vehicle in service that has less than one-half tank of fuel. Vehicles shall only be refueled at authorized locations unless an emergency situation arises.

702.5 CLEANING OF VEHICLES

All units shall be kept clean at all times and weather conditions permitting, shall be washed as necessary to keep a professional appearance.

Vehicles are normally washed during the weekends by Work Release. Should a vehicle need to be washed during the work week, employees may have the car washed at the County Jail carwash. Cleaning of vehicles is subject to water restrictions. In the event of an emergency vehicles can be taken to a local no-touch carwash.

Employees using a vehicle shall remove any trash or debris at the end of their shift or transport. Confidential material should be placed in a designated receptacle provided for the shredding of this matter.

Vehicle Use

703.1 POLICY

Employees of the Tuolumne County Probation Department are referred to the [County of Tuolumne website](#) regarding guidelines to County Vehicle Usage Policies.

Use of County Telephones

704.1 PURPOSE AND SCOPE

The purpose of this policy is to establish standards for appropriate use of county telephones.

704.2 RESTRICTIONS

Telephones located within the Probation Department are county property and are intended for official use only. All employees are prohibited from using county telephones for the following purposes:

- (a) Conducting private business enterprises or investment activities.
- (b) Any personal use that results in additional charges or fees to the County for long distance or other telephone company services.
- (c) Any other personal use that interferes with the employees work duties.
- (d) The Department will accept no collect calls.

Chapter 8 - Support Services

Property and Evidence

800.1 PURPOSE AND SCOPE

This policy provides for the proper collection, storage, and security of evidence and other property. Additionally, this policy provides for the protection of the chain of evidence and those persons authorized to remove and/or destroy property.

800.2 DEFINITIONS

Property - Includes all items of evidence, items taken for safekeeping and found property.

Evidence - Includes items taken or recovered in the course of an officer's duties that may be used as proof of a new law violation or violation of the terms of community supervision.

Chain of Custody – The order of places, where, and the persons with whom, physical evidence was located from the time it was collected to its submission at trial.

Safekeeping – Whenever possible the personal property of a detainee will be logged and accompany the detainee to be booked at the juvenile detention facility or the county jail. Any property that is not retained as evidence or booked with the detainee will be held for safekeeping. This may also include property held for subjects subsequently committed to placement, placed in treatment programs or hospitalized.

800.3 PROPERTY HANDLING

Any employee who first comes into possession of any property shall retain such property in his/her possession until it is properly tagged and placed in the designated storage room or booked as evidence at the Sheriff's Department. Care shall be taken to maintain the chain of custody for all evidence.

Where ownership can be established as to found property with no apparent evidentiary value, such property may be released to the owner without the need for booking.

The property form must be completed to document the release of property not booked and the owner shall sign the form acknowledging receipt of the items.

800.3.1 PROPERTY HELD IN THE PROPERTY CLOSET

Only property that is being held in safekeeping, and drug test specimens, are to be stored in the property storage closet. Collected drug test specimens shall be stored with the chain of custody preserved according to the proper procedures and mailed to the laboratory on the date of collection or the next business day.

Property held for minors in safekeeping may be released to a minor's parent or guardian. However, if the supervising officer has good cause to believe the minor will be available to receive his/her property in the near future, and in the opinion of the supervising officer it would be in the best interest of the minor to release the property to the minor, the property should be held in

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Property and Evidence

safekeeping. A property form must be completed and signed to document the release of all property.

800.3.2 EVIDENCE BOOKING PROCEDURE

Physical evidence of a new law violation or of a violation of community supervision is to be booked in the Tuolumne County Sheriff's Office Evidence Storage area according to the established mutual agency agreement.

- (a) Officers taking possession of evidence shall maintain possession until the property is properly tagged, property forms are complete, and the items are accepted by a Sheriff's Office evidence technician or a Sheriff's Office employee authorized to receive, book and store evidence for probation officers.
- (b) Evidence must be delivered to the Sheriff's Office prior to the officer going off-duty unless otherwise approved by a Supervising Probation Officer or Division Manager.
- (c) Evidence that cannot be booked with the Sheriff's Office prior to an officer going off-duty shall be packaged for booking with chain of custody preserved and temporarily stored in the High Risk Supervision Unit safe.
- (d) The booking officer shall deliver temporarily stored evidence to the Sheriff's Office on the next business day.
- (e) Under no circumstances shall explosives or other hazardous materials be temporarily stored in the department safe.

Officers shall follow all of the property booking instructions and procedures provided by the Sheriff's Office.

800.3.3 EXPLOSIVES

Officers who encounter suspected explosives shall promptly notify the Sheriff's Office or police department.

800.3.4 EXCEPTIONAL HANDLING

Certain property items require a separate process and specialized training for collection. Officers shall not collect evidence that they have not been trained or authorized to collect. The following items shall be processed in the described manner:

- (a) Bodily fluids such as blood or semen stains shall not be collected by probation officers. Probation officers who encounter potential evidence of a crime in the field should contact the appropriate law enforcement investigative agency to respond. Officers should secure any potential crime scene to maintain chain of evidence while taking care not to contaminate the scene of a crime. Probation officers will be relieved by the arrival of the appropriate investigating law enforcement agency.
- (b) All cash shall be counted in the presence of a supervisor and the envelope initialed by the booking officer and the supervisor. The Division Manager shall be contacted for cash in excess of \$1,000 for special handling procedures.

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County property, unless connected to a known criminal case, should be released directly to the appropriate County department. No formal booking is required. In cases where no responsible person can be located, the property should be booked for safekeeping in the normal manner.

800.4 PACKAGING OF PROPERTY

Certain items provided to the Sheriff's Office require special consideration and shall be booked separately as follows:

- (a) Narcotics and dangerous drugs
- (b) Firearms (ensure they are unloaded and booked separately from ammunition)
- (c) Property with more than one known owner
- (d) Paraphernalia as described in Health and Safety Code § 11364
- (e) Fireworks
- (f) Contraband

800.4.1 PACKAGING CONTAINER

Employees shall package all property, except narcotics and dangerous drugs in a suitable container available for its size. Knife boxes should be used to package knives, and syringe tubes should be used to package syringes and needles.

A property tag shall be securely attached to the outside of all items or group of items packaged together.

800.4.2 PACKAGING NARCOTICS

The officer seizing narcotics and dangerous drugs shall retain such property in his/her possession until it is properly weighed, packaged, tagged, and placed in the designated narcotics locker, accompanied by two copies of the property record. Prior to packaging and if the quantity allows, a presumptive test should be made on all suspected narcotics. If conducted, the results of this test shall be included in the officer's report.

Narcotics and dangerous drugs shall be packaged in an envelope of appropriate size. The booking officer shall initial the sealed envelope and the initials covered with cellophane tape. Narcotics and dangerous drugs shall not be packaged with other property.

A completed property tag shall be attached to the outside of the container. The chain of evidence shall be recorded on the back of this tag.

800.5 PROPERTY CONTROL

Officers who are required to bring evidence to court at the request of the District Attorney shall contact the Sheriff's Department evidence technician at least one business day in advance of the scheduled hearing and officers shall supply authorization from the District Attorney to receive evidence.

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800.5.1 STATUS OF PROPERTY

Each person receiving property will make the appropriate entry to document the chain of evidence. Temporary release of property to officers for court, shall be noted on the property control card, stating the date, time and to whom released.

Any employee receiving property shall be responsible for such property until it is properly returned to property or properly released to another authorized person or entity.

The return of the property should be recorded on the property control card, indicating date, time, and the person who returned the property.

800.5.2 AUTHORITY TO RELEASE PROPERTY

The District Attorney shall authorize the disposition, destruction or release of all evidence and property coming into the care and custody of the Sheriff's Office that involved prosecution of a new the crime.

The disposition, destruction or release of property which was handled as a violation of community supervision, or as an intermediate sanction, will be authorized by the Adult Division Manager. The disposition of all property regarding juvenile delinquency matters shall be authorized by the Juvenile Division Manager. Should a property claim be submitted to the County, Probation will coordinate with Risk Management and the County Counsel's Office regarding proper disposition, destruction or release of evidence or property.

Records Release and Security

801.1 PURPOSE AND SCOPE

The purpose of this section is to establish a comprehensive reference and procedure for the maintenance and release of department reports and records in accordance with applicable law.

801.2 PUBLIC REQUESTS FOR RECORDS

The California Public Records Act (Government Code § 6250, et seq.) provides that records created by a public agency shall be subject to inspection and release pursuant to request, except pursuant to exemptions set forth in the Act or otherwise established by statute. All public requests for records of this department shall be forwarded to the office of County Counsel for processing.

801.2.1 RELEASE OF ADULT PRE-SENTENCE REPORTS

Pursuant to Penal Code § 1203.05 any report of the probation officer filed with the court, including any report arising out of a previous arrest of the person who is the subject of the report, may be inspected or copied only as follows:

- (a) By any person, from the date judgment is pronounced or probation granted or, in the case of a report arising out of a previous arrest, from the date the subsequent accusatory pleading is filed, to and including 60 days from the date judgment is pronounced or probation is granted, whichever is earlier.
- (b) By any person, at any time, by order of the court, upon filing a petition thereof by the person.
- (c) By the general public, if the court upon its own motion orders that a report or reports shall be open or that the contents of the report or reports shall be disclosed.
- (d) By any person authorized or required by law to inspect or receive copies of the report.
- (e) By the District Attorney of the county at any time.
- (f) By the subject of the report at any time.

801.2.2 PUBLIC REQUEST FOR PRE-SENTENCE REPORT

Any request from the public to gain access to a report of the probation officer within the statutory time limits shall be directed to the Tuolumne County Superior Court.

801.2.3 JUVENILE CASE FILES AND REPORTS

Pursuant to Welfare and Institutions Code § 827, a juvenile case file may be inspected only by the following persons and/or agencies:

- (A) Court personnel.
- (B) The District Attorney.
- (C) The minor who is the subject of the proceeding.
- (D) The minor's parents or guardian.

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(E) The attorneys for the parties, judges, referees, other hearing officers, probation officers and law enforcement officers who are actively participating in criminal or juvenile proceedings involving the minor.

(F) The County Counsel, or any other attorney representing the petitioning agency in a dependency action.

(G) The Superintendent or designee of the school district where the minor is enrolled or attending school.

(H) Members of the child protective agencies as defined in Penal Code § 11165.9.

(I) The State Department of Social Services, to carry out its duties pursuant to Division 9 (commencing with Section 10000), and Part 5 (commencing with Section 7900) of Division 12, of the Family Code to oversee and monitor county child welfare agencies, children in foster care or receiving foster care assistance, and out-of-state placements, Section 10850.4, and paragraph (2).

(J) Authorized legal staff or special investigators who are peace officers who are employed by, or who are authorized representatives of, the State Department of Social Services, as necessary to the performance of their duties to inspect, license and investigate community care facilities and to ensure that the standards of care and services provided in those facilities are adequate and appropriate and to ascertain compliance with the rules and regulations to which the facilities are subject.

(K) Members of children's multidisciplinary teams, persons, or agencies providing treatment or supervision of the minor.

(L) A judge, commissioner, or other hearing officer assigned to a family law case with issues concerning custody or visitation, or both, involving the minor, and the following persons, if actively participating in the family law case: a family court mediator assigned to a case involving the minor pursuant to Article 1 (commencing with Section 3160) of Chapter 11 of Part 2 of Division 8 of the Family Code, a court-appointed evaluator or a person conducting a court-connected child custody evaluation, investigation, or assessment pursuant to Section 3111 or 3118 of the Family Code, and counsel appointed for the minor in the family law case pursuant to Section 3150 of the Family Code. Prior to allowing counsel appointed for the minor in the family law case to inspect the file, the court clerk may require counsel to provide a certified copy of the court order appointing him or her as the minor's counsel.

(M) A court-appointed investigator who is actively participating in a guardianship case involving a minor pursuant to Part 2 (commencing with Section 1500) of Division 4 of the Probate Code and acting within the scope of his or her duties in that case.

(N) A local child support agency for the purpose of establishing paternity and establishing and enforcing child support orders.

(O) Juvenile justice commissions as established under Section 225. The confidentiality provisions of Section 10850 shall apply to a juvenile justice commission and its members.

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(P) Any other person who may be designated by court order of the judge of the juvenile court upon filing a petition.

801.3 REPORT RELEASE RESTRICTIONS

Absent a valid court order or other statutory authority, records and/or unrestricted portions of such records of this department shall be made public subject to the following restrictions:

801.3.1 GENERAL CASE AND CRIME REPORTS

Reports containing any of the items listed below will not be released:

- (a) **Victim information** - Victims of crimes who have requested that their identifying information be kept confidential, victims who are minors and victims of certain offenses (e.g., sex crimes, Penal Code § 293) shall not be made public. No employee shall disclose to any arrested person or to any person who may be a defendant in a criminal action the address or telephone number of any person who is a victim or witness in the alleged offense, unless it is required by law (Penal Code § 841.5).
- (b) **Confidential information** - Information involving confidential informants, intelligence information, information that would endanger the safety of any person involved or information that would endanger the successful completion of the investigation or a related investigation shall not be made public.
 - 1. Analysis and conclusions of investigating officers may also be exempt from disclosure.
 - 2. If it has been noted in any report that any individual wishes to protect his/her right to privacy under the California Constitution, such information may not be subject to public disclosure.
- (c) **Specific crimes** - Certain types of reports involving, but not limited to, **child abuse/molestation** (Penal Code § 11167.5), **elder abuse** (Welfare and Institutions Code § 15633) and **juveniles** (Welfare and Institutions Code § 827) shall not be made public.
- (d) **General information** - Absent statutory exemption to the contrary or other lawful reason to deem information from reports confidential, information from unrestricted agency reports shall be made public as outlined in Government Code § 6254(f).
- (e) **Deceased juvenile crime victims** - The Code of Civil Procedure § 130 limits the dissemination of autopsy and private medical information concerning a murdered child by allowing families to request that the autopsy report of the victim be sealed from public inspection. Such requests shall be honored, with the exceptions that allow dissemination of those reports to law enforcement agents, prosecutors, defendants or civil litigants under state and federal discovery laws (Code of Civil Procedure §130).

801.3.2 ARREST REPORTS

Arrestee information shall be subject to release in the same manner as information contained in other reports as set forth above.

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In addition to the restrictions stated above, all requests from criminal defendants and their authorized representatives (including attorneys) shall be referred to the District Attorney, County Counsel or the courts pursuant to Penal Code § 1054.5.

Local criminal history information including, but not limited to, arrest history and disposition, and fingerprints shall only be subject to release to those agencies and individuals set forth in Penal Code § 13300.

801.3.3 PERSONNEL RECORDS

Personnel records, medical records and similar records which would involve personal privacy shall not be made public except pursuant to a valid court order or other legal process (Government Code § 6254((c); Penal Code § 832.7; Penal Code § 832.8).

Peace officer personnel records are deemed confidential (Penal Code § 832.7, et seq.) and shall not be made public or otherwise released to unauthorized individuals or entities absent a valid court order (Evidence Code § 1043, et seq.). The identity of any officer subject to any criminal or administrative investigation shall not be released unless authorized by law and after consultation with County Counsel.

801.4 OTHER RECORDS

Any other record not addressed in this policy shall not be subject to release where such record is exempt or prohibited from disclosure pursuant to state or federal law, including, but not limited to, provisions of the Evidence Code relating to privilege or to the security of the department's electronic technology systems (Government Code § 6254(k); Government Code 6254.19).

The Department maintains the right to refuse to disclose or release any other record when it would appear that the public's interest in accessing such record is outweighed by the need for nondisclosure. All such decisions will be reviewed with County Counsel. (Government Code § 6255).

Any record which was created exclusively in anticipation of potential litigation involving this department shall not be subject to public disclosure until the pending litigation or claim has been finally adjudicated or otherwise settled (Government Code § 6254(b)).

801.4.1 PERSONAL IDENTIFYING INFORMATION

Employees shall not access, use or disclose personal identifying information, including an individual's photograph, social security number, driver identification number, name, address, telephone number and the individual's medical or disability information, which is contained in any driver license record, motor vehicle record or any department record except as authorized by the Department and only when such use or disclosure is permitted or required by law to carry out a legitimate law enforcement purpose (18 USC § 2721 and 18 USC § 2722).

801.5 SUBPOENA DUCES TECUM

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Any Subpoena Duces Tecum (SDT) should be promptly provided to a manager for review and processing. While a Subpoena Duces Tecum may ultimately be subject to compliance, it is not an order from the Court that will automatically require the release of the requested information.

All questions regarding compliance with any Subpoena Duces Tecum should be promptly referred to legal counsel for the Department so that a timely response can be prepared.

801.6 RELEASED RECORDS TO BE STAMPED

Upon approval of County Counsel and/or the Chief Probation Officer, each page of any record released pursuant to a Public Records Act request or Subpoena Duces Tecum shall be stamped in red ink with a departmental stamp identifying the individual to whom the record was released.

Computers and Digital Evidence

802.1 PURPOSE AND SCOPE

This policy establishes procedures for the seizure and storage of computers, personal communications devices (PCDs) digital cameras, digital recorders and other electronic devices that are capable of storing digital information; and for the preservation and storage of digital evidence. All evidence seized and/or processed pursuant to this policy shall be done so in compliance with clearly established Fourth Amendment and search and seizure provisions.

When an officer encounters evidence that a crime has been committed using a computer, the Internet, digital media, or any personal communication device or media storage device, contact should be made with the law enforcement of jurisdiction to ascertain the availability of detectives trained in the investigation of this type of evidence to respond for assistance.

This policy also addresses those situations where only violation of terms and conditions are suspected or when the law enforcement agency of jurisdiction is unavailable.

802.2 FIELD SEARCH SOFTWARE

Officers authorized and trained in the use of Field Search Software may access computers and/or other electronic devices for the purpose of operating the software during a probation or active investigation in compliance with search and seizure laws.

802.3 SEIZING COMPUTERS AND RELATED EVIDENCE

Computer equipment requires specialized training and handling to preserve its value as evidence. Officers should be aware of the potential to destroy information through careless or improper handling, and utilize the most knowledgeable available resources. When seizing a computer and accessories the following steps should be taken:

- (a) Photograph each item, front and back, specifically including cable connections to other items. Look for a phone line or cable to a modem for Internet access.
- (b) Do not overlook the possibility of the presence of physical evidence on and around the hardware relevant to the particular investigation such as fingerprints, biological or trace evidence, and/or documents.
- (c) If the computer is off, do not turn it on.
- (d) If the computer is on, do not shut it down normally and do not click on anything or examine any files.
 - 1. Photograph the screen, if possible, and note any programs or windows that appear to be open and running.
 - 2. Disconnect the power cable from the back of the computer box or if a portable notebook style, disconnect any power cable from the case and remove the battery).

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- (e) Label each item with case number, evidence sheet number, and item number.
- (f) Handle and transport the computer and storage media (e.g., tape, discs, memory cards, flash memory, external drives) with care so that potential evidence is not lost.
- (g) Book all computer items as evidence with the Sheriff's Office. Do not store computers where normal room temperature and humidity is not maintained.
- (h) At minimum, officers should document the following in related reports:
 - 1. Where the computer was located and whether or not it was in operation.
 - 2. Who was using it at the time.
 - 3. Who claimed ownership.
 - 4. If it can be determined, how it was being used.
- (i) In most cases when a computer is involved in criminal acts or violation of the condition of supervision and is in the possession of the person under supervision, the computer itself and all storage devices (hard drives, tape drives, and disk drives) should be seized along with all media. Accessories (printers, monitors, mouse, scanner, keyboard, cables, software and manuals) should not be seized unless as a precursor to forfeiture.

802.3.1 BUSINESS OR NETWORKED COMPUTERS

If the computer belongs to a business or is part of a network, it may not be feasible to seize the entire computer. Cases involving networks require specialized handling. Officers should contact a certified forensic computer examiner for instructions or a response to the scene. It may be possible to perform an on-site inspection, or to image the hard drive only of the involved computer. This should only be done by someone specifically trained in processing computers for evidence.

802.4 SEIZING DIGITAL STORAGE MEDIA

Digital storage media including hard drives, CD's, DVD's, tapes, memory cards, or flash memory devices should be seized and stored in a manner that will protect them from damage.

- (a) If the media has a write-protection tab or switch, it should be activated.
- (b) Do not review, access or open digital files prior to submission. If the information is needed for immediate investigation request the Property and Evidence Section to copy the contents to an appropriate form of storage media.
- (c) Many kinds of storage media can be erased or damaged by magnetic fields. Keep all media away from magnetic devices, electric motors, radio transmitters or other sources of magnetic fields.
- (d) Do not leave storage media where they would be subject to excessive heat such as in a parked vehicle on a hot day.

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- (e) Use plastic cases designed to protect the media, or other protective packaging, to prevent damage.

802.5 SEIZING PCDS

Personal communication devices such as cell phones, or other hand-held devices connected to any communication network must be handled with care to preserve evidence that may be on the device including messages, stored data and/or images.

- (a) Officers shall photograph and document contents of evidence of any violations.
- (b) When seizing the devices, document any passcodes and also seize the charging units and keep them plugged in to the chargers. If the batteries go dead all the data may be lost.

802.6 DIGITAL EVIDENCE RECORDED BY OFFICERS

Officers handling and submitting recorded and digitally stored evidence from digital cameras and audio or video recorders will comply with these procedures to ensure the integrity and admissibility of such evidence.

Once evidence is recorded it shall not be erased, deleted or altered in any way prior to submission. All photographs taken will be preserved regardless of quality, composition or relevance. Video and audio files will not be altered in any way.

802.7 BOOKING OF EVIDENCE

Booking of evidence shall be in accordance with the Allied Agency Agreement established with the Sheriff's Office.

Chapter 9 - Custody

Custodial Searches

900.1 PURPOSE AND SCOPE

This policy provides guidance regarding searches of individuals in custody. Such searches are necessary to eliminate the introduction of contraband, intoxicants or weapons into the Tuolumne County Probation Department facility. Such items can pose a serious risk to the safety and security of department employees, individuals in custody, contractors and the public.

Nothing in this policy is intended to prohibit the otherwise lawful collection of evidence from an individual in custody.

900.1.1 DEFINITIONS

Definitions related to this policy include:

Custody search - An in-custody search of an individual and of his/her property, shoes and clothing, including pockets, cuffs and folds on the clothing, to remove all weapons, dangerous items and contraband.

Physical body cavity search - A search that includes a visual inspection and may include a physical intrusion into a body cavity. Body cavity means the stomach or rectal cavity of an individual, and the vagina of a female person.

Strip search - A search that requires an individual to remove or rearrange some or all of his/her clothing to permit a visual inspection of the underclothing, breasts, buttocks, anus or outer genitalia. This includes monitoring an individual who is changing clothes, where his/her underclothing, buttocks, genitalia or female breasts are visible.

900.2 POLICY

All searches shall be conducted with concern for safety, dignity, courtesy, respect for privacy and hygiene, and in compliance with policy and law to protect the rights of those who are subject to any search.

Searches shall not be used for intimidation, harassment, punishment or retaliation.

900.3 FIELD AND TRANSPORTATION SEARCHES

An officer should conduct a custody search of an individual immediately after his/her arrest, when receiving an individual from the custody of another, and before transporting a person who is in custody in any department vehicle.

Whenever practicable, a custody search should be conducted by an officer of the same sex as the person being searched. If an officer of the same sex is not reasonably available, a witnessing officer should be present during the search.

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900.4 SEARCHES AT SECURE FACILITIES

Custody searches shall be conducted on all individuals in custody, upon entry into a secured facility. Except in exigent circumstances, the search should be conducted by a employee of the same sex as the individual being searched. If a member of the same sex is not available, a witnessing member must be present during the search.

Custody searches should also be conducted any time an individual in custody enters or re-enters a secure area, or any time it is reasonably believed that a search is necessary to maintain the safety and security of the facility.

900.4.1 PROPERTY

Officers and probation aides shall take reasonable care in handling the property of an individual in custody to avoid discrepancies or losses. Property retained for safekeeping shall be kept in a secure location until the individual is released or transferred.

Some property may not be accepted by a facility or agency that is taking custody of an individual from this department, such as weapons or large items. These items should be retained for safekeeping in accordance with the Property and Evidence Policy.

All property shall be inventoried by objective description (this does not include an estimated value). The individual from whom it was taken shall be required to sign the completed inventory. If the individual's signature cannot be obtained, the inventory shall be witnessed by another department member.

900.4.2 VERIFICATION OF MONEY

All money shall be counted in front of the individual from whom it was received. When possible, the individual shall initial the dollar amount on the inventory. Additionally, all money should be placed in a separate envelope and sealed. Negotiable checks or other instruments and foreign currency should also be sealed in an envelope with the amount indicated but not added to the cash total. All envelopes should clearly indicate the contents on the front. The employee sealing it should place his/her initials across the sealed flap. Should any money be withdrawn or added, the employee making such change shall enter the amount below the original entry and initial it. The amount of money in the envelope should always be totaled and written on the outside of the envelope.

900.5 STRIP SEARCHES

No individual in temporary custody at the Tuolumne County Probation Department shall be subjected to a strip search.

900.5.1 SPECIAL CIRCUMSTANCE FIELD SEARCHES

No strip searches shall be conducted in the field. Should an officer suspect an individual in custody to have hidden contraband he/she shall request the individual to voluntarily remove the item at the site, while maintaining visual sight, while allowing a reasonable amount of privacy. Restraints may be adjusted to allow removal of any concealed contraband, however clothing shall remain intact.

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Transport to a medical facility should occur in situations where evidence/contraband cannot be recovered by a more limited search or in those cases when the individual in custody is uncooperative. Approval must be obtained from a Division Manager, Assistant Chief or Chief Probation Officer and will require a search warrant be issued.

900.6 TRAINING

The Supervising Probation Officer in charge of training shall ensure employees have training that includes (28 CFR 115.115):

- Conducting searches properly in a professional and respectful manner and in the least intrusive manner possible, consistent with security needs.
- Conducting cross-gender searches.
- Conducting searches of transgender and intersex prisoners.

Chapter 10 - Personnel

Recruitment and Selection

1000.1 PURPOSE AND SCOPE

This policy provides a framework for employee recruiting efforts and identifying job-related standards for the selection process. This policy supplements the rules that govern employment practices for the County of Tuolumne and that are promulgated and maintained by the Tuolumne County Department of Human Resources.

1000.2 POLICY

In accordance with applicable federal, state, and local law, the Tuolumne County Probation Department provides equal opportunities for applicants and employees, regardless of actual or perceived race, ethnicity, national origin, religion, sex, sexual orientation, gender identity or expression, age, disability, pregnancy, genetic information, veteran status, marital status, or any other protected class or status. The Department does not show partiality or grant any special status to any applicant, employee, or group of employees unless otherwise required by law.

The Department will recruit and hire only those individuals who demonstrate a commitment to service and who possess the traits and characteristics that reflect personal integrity and high ethical standards.

1000.3 SELECTION PROCESS

The Department shall actively strive to identify a diverse group of candidates who have in some manner distinguished themselves as being outstanding prospects. Minimally, the Department should employ a comprehensive screening, background investigation and selection process that assesses cognitive and physical abilities and includes review and verification of the following:

- (a) A comprehensive application for employment (including previous employment, references, current and prior addresses, education, military record)
- (b) Driving record
- (c) Reference checks
- (d) Employment eligibility, including U.S. Citizenship and Immigration Services (USCIS) Employment Eligibility Verification Form I-9 and acceptable identity and employment authorization documents consistent with Labor Code § 1019.1. This required documentation should not be requested until a candidate is hired. This does not prohibit obtaining documents required for other purposes.
- (e) Information obtained from public internet sites
- (f) Financial history consistent with the Fair Credit Reporting Act (FCRA) (15 USC § 1681 et seq.)
- (g) Local, state and federal criminal history record checks
- (h) Lie detector test (when legally permissible) (Labor Code § 432.2)

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- (i) Medical and psychological examination for sworn candidates (may only be given after a conditional offer of employment)
- (j) Review board or selection committee assessment
- (k) Qualifying score on the Corrections Standards Authority written exam

1000.5 BACKGROUND INVESTIGATION

Every candidate shall undergo a thorough background investigation to verify his/her personal integrity and high ethical standards, and to identify any past behavior that may be indicative of the candidate's unsuitability to perform duties relevant to the operation of the Tuolumne County Probation Department (11 CCR 1953).

The narrative report and any other relevant background information shall be shared with the psychological evaluator. Information shall also be shared with others involved in the hiring process if it is relevant to their respective evaluations (11 CCR 1953).

1000.5.1 NOTICES

Background investigators shall ensure that investigations are conducted and notices provided in accordance with the requirements of the FCRA and the California Investigative Consumer Reporting Agencies Act (15 USC § 1681d; Civil Code § 1786.16).

1000.5.2 STATE NOTICES

If information disclosed in a candidate's (for a peace officer position only) criminal offender record information (CORI) is the basis for an adverse employment decision, the candidate will be referred to the Department of Justice for a copy of the CORI (Penal Code § 11105).

1000.5.3 REVIEW OF SOCIAL MEDIA SITES

Due to the potential for accessing unsubstantiated, private or protected information, the Chief Probation Officer shall not require candidates to provide passwords, account information or access to password-protected social media accounts (Labor Code § 980).

The Chief Probation Officer should consider utilizing the services of an appropriately trained and experienced third party to conduct open source, Internet-based searches and/or review information from social media sites to ensure that:

- (a) The legal rights of candidates are protected.
- (b) Material and information to be considered are verified, accurate and validated.
- (c) The Department fully complies with applicable privacy protections and local, state and federal law.

Regardless of whether a third party is used, the Chief Probation Officer should ensure that potentially impermissible information is not available to any person involved in the candidate selection process.

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1000.5.4 DOCUMENTING AND REPORTING

The background investigator shall summarize the results of the background investigation in a report that includes sufficient information to allow the reviewing authority to decide whether to extend a conditional offer of employment. The report shall not include any information that is prohibited from use, including that from social media sites, in making employment decisions. The report and all supporting documentation shall be included in the candidate's background investigation file.

1000.5.5 RECORDS RETENTION

The background report and all supporting documentation shall be maintained for a minimum of two years and in accordance with the established records retention schedule (Government Code § 12946; 11 CCR 1953).

1000.5.6 BACKGROUND INVESTIGATION UPDATE

A background investigation update may, at the discretion of the Chief Probation Officer, be conducted in lieu of a complete new background investigation on a peace officer candidate who is reappointed within 180 days of voluntary separation from the Tuolumne County Probation Department as provided in 11 CCR 1953(f).

1000.5 DISQUALIFICATION GUIDELINES

As a general rule, performance indicators and candidate information and records shall be evaluated by considering the candidate as a whole, and taking into consideration the following:

- Age at the time the behavior occurred
- Passage of time
- Patterns of past behavior
- Severity of behavior
- Probable consequences if past behavior is repeated or made public
- Likelihood of recurrence
- Relevance of past behavior to public safety employment
- Aggravating and mitigating factors
- Other relevant considerations

A candidate's qualifications will be assessed on a case-by-case basis, using a totality-of-the-circumstances framework.

1000.6 EMPLOYMENT STANDARDS

All peace officer candidates shall meet the minimum standards required by state law (Government Code §1029; Government Code § 1031; 11 CCR 1950 et seq.). Candidates will be evaluated based on merit, ability, competence and experience, in accordance with the high standards of integrity and ethics valued by the Department and the community. The California Commission on

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Peace Officer Standards and Training (POST) developed a Job Dimensions list, which is used as a professional standard in background investigations.

The Chief Probation Officer in consultation with County Counsel and the Human Resources Director shall determine the essential classifications subject to peace officer background investigations and hiring standards.

Validated, job-related and nondiscriminatory employment standards shall be established for each job classification and shall minimally identify the training, abilities, knowledge and skills required to perform the position's essential duties in a satisfactory manner. Each standard should include performance indicators for candidate evaluation. The Human Resources Department should maintain validated standards for all positions.

1000.6.1 STANDARDS FOR OFFICERS

Candidates shall meet the minimum standards established by POST (Government Code § 1029; Government Code § 1031; 11 CCR 1950 et seq.):

- (a) Free of any felony convictions
- (b) Citizen of the United States, or permanent resident alien eligible for and has applied for citizenship
- (c) At least 18 years of age
- (d) Fingerprinted for local, state and national fingerprint check
- (e) Good moral character as determined by a thorough background investigation (11 CCR 1953)
- (f) High school graduate, passed the GED or other high school equivalency test or obtained a two-year, four-year or advanced degree from an accredited or approved institution
- (g) Free from any physical, emotional, or mental condition which might adversely affect the exercise of police powers (11 CCR 1954; 11 CCR 1955)
- (h) Candidates must also satisfy the POST selection requirements, including (11 CCR 1950 et seq.):
 - 1. Reading and writing ability assessment (11 CCR 1951)
 - 2. Oral interview to determine suitability for law enforcement service (11 CCR 1952)

In addition to the above minimum POST required standards, candidates may be subjected to additional standards established by the Department (Penal Code § 13510(d)).

Grievance Procedure

1001.1 PURPOSE AND SCOPE

It is the policy of the Chief Probation Officer to work with the County Administration and staff to resolve employee grievances at the lowest possible level within the County hierarchy. The County of Tuolumne has adopted detailed grievance policies and procedures specific to each bargaining unit. Probation Department employees must comply with the established County grievance procedures as provided within their respective Memorandums of Understanding available through Human Resources Department or online at the [Tuolumne County website](http://www.tuolumnecounty.ca.gov/index.aspx?NID=410) (<http://www.tuolumnecounty.ca.gov/index.aspx?NID=410>).

Reporting of Employee Convictions

1002.1 PURPOSE AND SCOPE

Convictions of certain offenses may restrict or prohibit an employee's ability to properly perform official duties. Therefore, all employees shall be required to promptly notify the Department of any past and current criminal convictions.

1002.2 DOMESTIC VIOLENCE CONVICTIONS, OUTSTANDING WARRANTS AND RESTRAINING ORDERS

California and federal law prohibit individuals convicted of, or having an outstanding warrant for, certain offenses and individuals subject to certain court orders from lawfully possessing a firearm. Such convictions and court orders often involve allegations of the use or attempted use of force or threatened use of a weapon on any individual in a domestic relationship (e.g., spouse, cohabitant, parent, child) (18 USC § 922; Penal Code § 29805).

All safety employees are responsible for ensuring that they have not been disqualified from possessing a firearm by any such conviction or court order and shall promptly report any such conviction or court order to a supervisor, as provided in this policy.

1002.3 OTHER CRIMINAL CONVICTIONS AND COURT ORDERS

Government Code § 1029 prohibits any person convicted of a felony from being a peace officer in the State of California. This prohibition applies regardless of whether the guilt was established by way of a verdict, guilty or nolo contendere plea.

Convictions of certain violations of the Vehicle Code and other provisions of law may also place restrictions on an employee's ability to fully perform the duties of the job.

Outstanding warrants as provided in Penal Code § 29805 also place restrictions on an employee's ability to possess a firearm.

Moreover, while legal restrictions may or may not be imposed by statute or by the courts upon conviction of any criminal offense, criminal conduct by employees of this department may be inherently in conflict with law enforcement duties and the public trust.

1002.4 REPORTING PROCEDURE

All employees of this department and all retired officers with an identification card issued by the Department shall promptly notify their immediate supervisor (or the Chief Probation Officer in the case of retired officers) in writing of any past or current criminal arrest, outstanding warrant or conviction regardless of whether or not the matter is currently on appeal and regardless of the penalty or sentence, if any.

All employees and all retired officers with an identification card issued by the Department shall further promptly notify their immediate supervisor (or the Chief Probation Officer in the case of

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retired officers) in writing if the employee or retiree becomes the subject of a domestic violence restraining order or similar court order or becomes the subject of an outstanding warrant.

Any employee whose criminal conviction unduly restricts or prohibits that employee from fully and properly performing his/her duties may be disciplined including, but not limited to, being placed on administrative leave, reassignment and/or termination. Any effort to remove such disqualification or restriction shall remain entirely the responsibility of the member on his/her own time and expense.

Any employee failing to provide prompt written notice pursuant to this policy shall be subject to discipline.

1002.5 PROCEDURE FOR RELIEF

Pursuant to Penal Code § 29855, a peace officer may petition the court for permission to carry a firearm following a conviction under state law. Federal law, however, does not provide for any such similar judicial relief and the granting of a state court petition under Penal Code § 29855 will not relieve one of the restrictions imposed by federal law. Therefore, relief for any employee falling under the restrictions imposed by federal law may only be obtained by expungement of the conviction. Each employee shall seek relief from firearm restrictions on their own time and through their own resources.

Pursuant to Family Code § 6389(h), an individual may petition the court for an exemption to any restraining order, which would thereafter permit the individual to carry a firearm as a part of their employment. Relief from any domestic violence or other restriction shall also be pursued through the employee's own resources and on the employee's own time.

Pending satisfactory proof of relief from any legal restriction imposed on an employee's duties, the employee may be placed on administrative leave, reassigned or disciplined. The Department may, but is not required to return an employee to any assignment, reinstate any employee or reverse any pending or imposed discipline upon presentation of satisfactory proof of relief from any legal restriction set forth in this policy and in accordance with the employee's respective Memorandum of Understanding.

Drug- and Alcohol-Free Workplace

1003.1 POLICY

Employees are referred to the [County of Tuolumne Alcohol & Drug Abuse Policy](#) available through the Human Resources Department.

Working Hours

1004.1 PURPOSE AND SCOPE

- (a) To establish the basic working hours for all non-exempt employees of the Department.
- (b) To achieve the optimal utilization of staff while affording individual employees a maximum degree of flexibility in arranging work schedules.

1004.1.1 DEFINITIONS

- (a) **Official Work Week** and **Standard Work Week** - 40-hour period beginning at 12:01 p.m. Saturday and ending at 12:00 p.m. the following Saturday.
- (b) **Usual Operating Hours** and **Usual Working Hours** - those days and hours when the Probation Department is customarily open to the public and conducting its business.
- (c) **Core Hours** - 9:00 a.m. to 3:00 p.m.

1004.2 USUAL OPERATING HOURS - PROBATION DEPARTMENT

The standard tour of duty for the Probation Department is from 8:00 a.m. to 5:00 p.m., except Saturdays, Sundays and holidays declared by the Board of Supervisors. All Probation Department employees, Work Release employees, Probation aides and those employees on an approved flex contract are expected to work these basic hours, except as provided in this policy.

- (a) No employee shall work more than 40 hours in any official county work week without prior approval of their Division Manager or Chief Probation Officer.

1004.3 CREDIT FOR TIME SPENT TRAVELING

Employees who must travel outside Tuolumne County for the purposes of supervising cases, obeying subpoenas, or attending meetings, seminars, conferences and training courses will use the following guidelines for determining travel time:

- (a) Travel time will be on county time for the purposes listed above if the employee's participation in the activity is required by the Department or if they are directed to attend a specific training course.
- (b) Travel time for attendance at optional or elective training sessions, or other non-mandatory activities, will be on the employee's personal time.

1004.4 EXCEPTIONS TO THE USUAL WORKDAY

- (a) Employees may be required to begin the workday earlier than 8:00 a.m. to attend unit staff meetings or other mandatory activities. In such cases, the employee will finish the workday at a proportionately earlier time or make other arrangements to avoid any overtime being worked.

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- (b) Employees may be required to begin the workday later than 8:00 a.m. for the purpose of providing evening supervision or other services which extend beyond the usual quitting time.
- (c) Employees who become aware they have accumulated excess hours due to mandatory activities must consult with a Manager or Chief Probation Officer as soon as possible to discuss how to adjust their schedule to avoid unnecessary overtime and to ensure departmental coverage.

1004.5 FLEXIBLE WORK SCHEDULE

The purpose of flex time is to create less employee stress and higher employee morale. Flex time shall be broken down into two basic categories:

- (a) All persons will work hours 9:00 a.m. to 3:00 p.m., Monday through Friday, 40 hours per week. Persons will not be bound to an eight hour day upon mutual agreement between managers and employees. Lunch hours are flexible, however, at least one-half hour must be taken between 12:00 p.m. and 1:00 p.m.
- (b) Those persons opting to work other than core hours or a split work day must submit a written proposal to their supervisor who will forward the request, if appropriate, to the Manager for review. The Chief Probation Officer will be responsible for approving all requests and will consider unit coverage, duration of alternate work schedule and periodic evaluation of alternative work schedule upon the Department.

Employees approved to work a flexible schedule will have a Flexible Work Schedule Contract signed by the Chief Probation Officer and the employee.

1004.5.1 FLEXIBLE SCHEDULE GUIDELINES

Employees may vary their starting and stopping time within limits, but work the number of hours contracted (40 hours in a one week period). Office hours will remain the same for the public, 8:00 a.m. to 5:00 p.m., and closed from 12:00 to 1:00 p.m.

- (a) Employees using adjusted work schedule must attend all scheduled unit meetings, training sessions and other meetings regardless of that individual's regular work schedule.
- (b) Employees must ensure that adequate coverage will be maintained to meet the needs of the Department. Eight to five coverage will be divided equally between all employees. Specific back up responsibilities must be maintained. Reception function must be covered at all times.
- (c) Flexible hours are an employee benefit. Abuse of the privilege will result in loss of the privilege by the individual in accordance with the Flexible Work Schedule Contract.
- (d) Employees will adjust their schedule to cover court and training requirements within the 40-hour work week.

Sick Leave

1005.1 POLICY

Employees should refer to the respective Memorandums of Understanding available on the County website.

1005.2 MANAGER/SUPERVISOR RESPONSIBILITY

Managers/Supervisors should monitor sick leave usage and regularly review the attendance of employees under their command to ensure that the use of sick leave is consistent with the County policy. Managers/Supervisors should address sick-leave use in the employee's performance evaluation when it has negatively affected the employee's performance or ability to complete assigned duties, and when unusual amounts of sick leave by the employee has had a negative impact on department operations. When appropriate, Managers should counsel employees regarding the excessive use of sick leave and should consider referring the employee to the Employee Assistance Program.

Vacation Time Off

1006.1 PURPOSE AND SCOPE

The purpose of this policy is to establish equitable guidelines for employee vacation time off.

1006.2 VACATION GUIDELINES

- (a) All full-time employees are entitled to earn and accrue vacation time at the rates established by the employees bargaining unit and the County of Tuolumne.
- (b) It is the policy of the Chief Probation Officer to encourage employees to take vacation time annually in the amount earned for that year.
- (c) It is the policy of the Chief Probation Officer, when considering vacation requests, that a minimum staffing of 50 percent be maintained at all times in each unit.
- (d) All vacation requests must be approved by the employee's Manager, who may deny a request based on the work needs of the unit to which the employee is assigned. Such denials may be appealed to the Chief Probation Officer.
- (e) Vacation may be taken in one-quarter hour increments unless such requests would otherwise disrupt the functioning of the Department.
- (f) Employees should not make reservations or purchase tickets until the vacation request has been approved by the employee's Manager.
- (g) All vacation requests should be made as far in advance as possible to help meet scheduling and other work demands. The minimum acceptable lead time for vacation requests is five days; however, exceptions may be approved at the discretion of the employee's supervisor. Vacation requests for the months of November and December will be solicited in September in order to try to meet the vacation requests of as many departmental employees as possible.

Communicable Diseases

1007.1 PURPOSE AND SCOPE

The County of Tuolumne's Injury and Illness Prevention Program (IIPP) is the governing document for all county departments. This policy provides the essential framework required for an IIPP. This policy can be located in the reception area of each Probation Department Office.

Smoking and Tobacco Use

1008.1 PURPOSE AND SCOPE

This policy establishes limitations on the use of tobacco products by employees and others while on-duty or while in Tuolumne County Probation Department facilities or vehicles.

1008.2 POLICY

The Tuolumne County Probation Department recognizes that tobacco use is a health risk and can be offensive to other employees and to the public. It is the policy of the Tuolumne County Probation Department to prohibit the use of tobacco by employees while on-duty or at any time the employee is acting in an official capacity for the Department.

1008.3 EMPLOYEE USE

Tobacco use by employees is prohibited anytime employees are in public view representing the Department.

Smoking and the use of other tobacco products is not permitted inside any County facility, office or vehicle (California Labor Code § 6404.5 and Government Code § 7597b).

It shall be the responsibility of each employee to ensure that no person under his/her supervision smokes or uses any tobacco product inside County facilities and vehicles.

1008.4 ADDITIONAL PROHIBITIONS

No person shall use tobacco products within 20 feet of a main entrance, exit, or operable window of any public building (including any department facility), or buildings on the campuses of the University of California, California State University and California community colleges, whether present for training, enforcement, or any other purpose (Government Code § 7596 et seq.).

Employees are encouraged to review the County of Tuolumne Clean Indoor Air and Health Protection Ordinance (Tuolumne County Ordinance No. 2077) which regulates the prohibition of smoking in all public places and work places. This Ordinance can be located on the [County of Tuolumne website](http://www.tuolumnecounty.ca.gov/index.aspx?NID=937) at <http://www.tuolumnecounty.ca.gov/index.aspx?NID=937>.

Personnel Complaints

1009.1 PURPOSE AND SCOPE

This policy provides guidelines for the reporting, investigation and disposition of complaints regarding the conduct of employees of the Tuolumne County Probation Department. This policy shall not apply to any questioning, counseling, instruction, informal verbal admonishment or other routine or unplanned contact of an employee in the normal course of duty, by a supervisor or any other employee, nor shall this policy apply to a criminal investigation.

1009.2 POLICY

The Tuolumne County Probation Department takes seriously all complaints regarding the service provided by the Department and the conduct of its employees.

The Department will accept and address all complaints of misconduct in accordance with this policy and applicable federal, state and local law, municipal and county rules and the requirements of any collective bargaining agreements.

It is also the policy of this department to ensure that the community can report misconduct without concern for reprisal or retaliation.

1009.3 PERSONNEL COMPLAINTS

Personnel complaints include any allegation of misconduct or improper job performance that, if true, would constitute a violation of department policy or of federal, state or local law, policy or rule. Personnel complaints may be generated internally or by the public.

Inquiries about conduct or performance that, if true, would not violate department policy or federal, state or local law, policy or rule may be handled informally by a manager and shall not be considered a personnel complaint. Such inquiries generally include clarification regarding policy, procedures or the response to specific incidents by the Department.

1009.3.1 COMPLAINT CLASSIFICATIONS

Personnel complaints shall be classified in one of the following categories:

Informal - A matter in which the Chief Probation Officer is satisfied that appropriate action has been taken by a manager of rank greater than the accused employee.

Formal - A matter in which a manager determines that further action is warranted. Such complaints may be investigated by a manager of rank greater than the accused employee or referred by the Chief Probation Officer to an internal affairs investigator or the Human Resource Manager depending on the seriousness and complexity of the investigation.

Incomplete - A matter in which the complaining party either refuses to cooperate or becomes unavailable after diligent follow-up investigation. At the discretion of the assigned manager or the Internal Affairs Investigator, such matters may be further investigated depending on the seriousness of the complaint and the availability of sufficient information.

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1009.3.2 SOURCES OF COMPLAINTS

The following applies to the source of complaints:

- (a) Individuals from the public may make complaints in any form, including in writing, by email, in person or by telephone.
- (b) Any department employee becoming aware of alleged misconduct shall immediately notify a manager.
- (c) Managers shall initiate a complaint based upon observed misconduct or receipt from any source alleging misconduct that, if true, could result in disciplinary action.
- (d) Anonymous and third-party complaints should be accepted and investigated to the extent that sufficient information is provided.
- (e) Tort claims and lawsuits may generate a personnel complaint.

1009.4 AVAILABILITY AND ACCEPTANCE OF COMPLAINTS

1009.4.1 COMPLAINT FORMS

Personnel complaint forms will be readily available to the public upon request.

Personnel complaint forms in languages other than English may also be provided, as determined necessary or practicable.

1009.4.2 ACCEPTANCE

All complaints will be courteously accepted by any department employee and promptly given to the appropriate manager or supervisor. Although written complaints are preferred, a complaint may also be filed orally, either in person or by telephone. Such complaints will be directed to a manager or supervisor. If a manager or supervisor is not immediately available to take an oral complaint, the receiving employee shall obtain contact information sufficient for the manager or supervisor to contact the complainant. The manager or supervisor, upon contact with the complainant, shall complete and submit a complaint form as appropriate.

Although not required, complainants should be encouraged to file complaints in person so that proper identification, signatures, photographs or physical evidence may be obtained as necessary.

A complainant shall be provided with a copy of his/her statement at the time it is filed with the Department (Penal Code § 832.7).

1009.4.3 AVAILABILITY OF WRITTEN PROCEDURES

The Department shall make available to the public a written description of the investigation procedures for complaints upon request (Penal Code § 832.5).

1009.5 DOCUMENTATION

Managers shall ensure that all formal and informal complaints are documented on a complaint form. The manager shall ensure that the nature of the complaint is defined as clearly as possible.

All complaints and inquiries should also be documented in a log that records and tracks complaints. The log shall include the nature of the complaint and the actions taken to address the

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complaint. The log shall be maintained and audited annually by the Chief Probation Officer and annually reported as required to the California Department of Justice.

1009.6 ADMINISTRATIVE INVESTIGATIONS

Allegations of misconduct will be administratively investigated as follows.

1009.6.1 MANAGER RESPONSIBILITIES

In general, the primary responsibility for the investigation of a personnel complaint shall rest with the employee's immediate manager, unless the manager is the complainant, or the manager is the ultimate decision-maker regarding disciplinary action or has any personal involvement regarding the alleged misconduct. The Chief Probation Officer or the authorized designee may direct that another manager investigate any complaint.

A manager who becomes aware of alleged misconduct shall take reasonable steps to prevent aggravation of the situation.

The responsibilities of managers include, but are not limited to:

- (a) Ensuring that upon receiving or initiating any formal complaint, a complaint form is completed.
 - 1. The original complaint form will be directed to the Chief Probation Officer, via the chain of command, who will take appropriate action and/ or determine who will have responsibility for the investigation.
 - 2. In circumstances where the integrity of the investigation could be jeopardized by reducing the complaint to writing or where the confidentiality of a complainant is at issue, a manager shall orally report the matter to the Chief Probation Officer, who will initiate appropriate action.
- (b) Responding to all complaints in a courteous and professional manner.
- (c) Resolving those personnel complaints that can be resolved immediately.
 - 1. Follow-up contact with the complainant should be made within 24 hours of the Department receiving the complaint.
 - 2. If the matter is resolved and no further action is required, the manager will note the resolution on a complaint form and forward the form to the Chief Probation Officer.
- (d) Ensuring that upon receipt of a complaint involving allegations of a potentially serious nature, the Chief Probation Officer is notified via the chain of command as soon as practicable.
- (e) Promptly contacting the Human Resource Department and the Chief Probation Officer for direction regarding their roles in addressing a complaint that relates to sexual, racial, ethnic or other forms of prohibited harassment or discrimination.
- (f) Forwarding unresolved personnel complaints to the Chief Probation Officer, who will determine whether to contact the complainant or assign the complaint for investigation.

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- (g) Informing the complainant of the investigator's name and the complaint number within three days after assignment.
- (h) Investigating a complaint as follows:
 - 1. Making reasonable efforts to obtain names, addresses and telephone numbers of witnesses.
 - 2. When appropriate, ensuring immediate medical attention is provided and photographs of alleged injuries and accessible uninjured areas are taken.
- (i) Ensuring that the procedural rights of the accused employee are followed (Government Code § 3303 et seq.).
- (j) Ensuring interviews of the complainant are generally conducted during reasonable hours.

1009.6.2 ADMINISTRATIVE INVESTIGATION PROCEDURES

Those employees not covered by the Public Safety Officers Procedural Bill of Rights Act should refer to their specific MOUs and County Personnel Rules and Regulations.

Whether conducted by a manager or an assigned Internal Affairs Investigator, the following applies to employees covered by the Public Safety Officers Procedural Bill of Rights Act (POBR) (Government Code § 3303):

- (a) Interviews of an accused employee shall be conducted during reasonable hours and preferably when the employee is on-duty. If the employee is off-duty, he/she shall be compensated.
- (b) Unless waived by the employee, interviews of an accused employee shall be at the Tuolumne County Probation Department or other reasonable and appropriate place.
- (c) No more than two interviewers should ask questions of an accused employee.
- (d) Prior to any interview, a employee shall be informed of the nature of the investigation, the name, rank and command of the officer in charge of the investigation, the interviewing officers and all other persons to be present during the interview.
- (e) All interviews shall be for a reasonable period and the employee's personal needs should be accommodated.
- (f) No employee should be subjected to offensive or threatening language, nor shall any promises, rewards or other inducements be used to obtain answers.
- (g) Any employee refusing to answer questions directly related to the investigation may be ordered to answer questions administratively and may be subject to discipline for failing to do so.
 - 1. A employee should be given an order to answer questions in an administrative investigation that might incriminate the employee in a criminal matter only after the employee has been given a *Lybarger* advisement. Administrative investigators should consider the impact that compelling a statement from the employee may have on any related criminal investigation and should take reasonable steps to avoid creating any foreseeable conflicts between the two

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related investigations. This may include conferring with the person in charge of the criminal investigation (e.g., discussion of processes, timing, implications).

2. No information or evidence administratively coerced from a employee may be provided to anyone involved in conducting the criminal investigation or to any prosecutor.
- (h) The interviewer should record all interviews of employees and witnesses. The employee may also record the interview. If the employee has been previously interviewed, a copy of that recorded interview shall be provided to the employee prior to any subsequent interview.
- (i) All employees subjected to interviews that could result in discipline have the right to have an uninvolved representative present during the interview. However, in order to maintain the integrity of each individual's statement, involved employees shall not consult or meet with a representative or attorney collectively or in groups prior to being interviewed.
- (j) All employees shall provide complete and truthful responses to questions posed during interviews.
- (k) No employee may be requested or compelled to submit to a polygraph examination, nor shall any refusal to submit to such examination be mentioned in any investigation (Government Code § 3307).

No investigation shall be undertaken against any officer solely because the officer has been placed on a prosecutor's *Brady* list or the name of the officer may otherwise be subject to disclosure pursuant to *Brady v. Maryland*. However, an investigation may be based on the underlying acts or omissions for which the officer has been placed on a Brady list or may otherwise be subject to disclosure pursuant to *Brady v. Maryland* (Government Code § 3305.5).

1009.6.3 ADMINISTRATIVE INVESTIGATION FORMAT

Formal investigations of personnel complaints shall be thorough, complete and essentially follow this format:

Introduction - Include the identity of the employees, the identity of the assigned investigators, the initial date and source of the complaint.

Synopsis - Provide a brief summary of the facts giving rise to the investigation.

Summary - List the allegations separately, including applicable policy sections, with a brief summary of the evidence relevant to each allegation. A separate recommended finding should be provided for each allegation.

Evidence - Each allegation should be set forth with the details of the evidence applicable to each allegation provided, including comprehensive summaries of employee and witness statements. Other evidence related to each allegation should also be detailed in this section.

Conclusion - A recommendation regarding further action or disposition should be provided.

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Exhibits - A separate list of exhibits (e.g., recordings, photos, documents) should be attached to the report.

1009.6.4 DISPOSITIONS

Each personnel complaint shall be classified with one of the following dispositions:

Unfounded - When the investigation discloses that the alleged acts did not occur or did not involve department employees. Complaints that are determined to be frivolous will fall within the classification of unfounded.

Exonerated - When the investigation discloses that the alleged act occurred but that the act was justified, lawful and/or proper.

Not sustained - When the investigation discloses that there is insufficient evidence to sustain the complaint or fully exonerate the employee.

Sustained - When the investigation discloses sufficient evidence to establish that the act occurred and that it constituted misconduct.

If an investigation discloses misconduct or improper job performance that was not alleged in the original complaint, the investigator shall take appropriate action with regard to any additional allegations.

1009.6.5 COMPLETION OF INVESTIGATIONS

Every investigator or supervisor assigned to investigate a personnel complaint or other alleged misconduct shall proceed with due diligence in an effort to complete the investigation within one year from the date of discovery by an individual authorized to initiate an investigation (Government Code § 3304).

In the event that an investigation cannot be completed within one year of discovery, the assigned investigator or manager shall ensure that an extension or delay is warranted within the exceptions set forth in Government Code § 3304(d) or Government Code § 3508.1.

1009.6.6 NOTICE TO COMPLAINANT OF INVESTIGATION STATUS

The employee conducting the investigation should provide the complainant with periodic updates on the status of the investigation, as appropriate.

1009.7 ADMINISTRATIVE SEARCHES

Assigned lockers, storage spaces and other areas, including desks, offices and vehicles, may be searched as part of an administrative investigation upon a reasonable suspicion of misconduct.

Such areas may also be searched any time by a manager for non-investigative purposes, such as obtaining a needed report, radio or other document or equipment.

Lockers and storage spaces may only be administratively searched in the employee's presence, with the employee's consent, with a valid search warrant or where the employee has been given reasonable notice that the search will take place (Government Code § 3309).

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1009.7.1 DISCLOSURE OF FINANCIAL INFORMATION

An employee may be compelled to disclose personal financial information under the following circumstances (Government Code § 3308):

- (a) Pursuant to a state law or proper legal process
- (b) Information exists that tends to indicate a conflict of interest with official duties
- (c) If the employee is assigned to or being considered for a special assignment with a potential for bribes or other improper inducements

1009.8 ADMINISTRATIVE LEAVE

When a complaint of misconduct is of a serious nature, or when circumstances indicate that allowing the accused to continue to work would adversely affect the mission of the Department, the Chief Probation Officer in consultation with the Human Resource Manager may temporarily assign an accused employee to administrative leave. Any employee placed on administrative leave:

- (a) May be required to relinquish any department badge, identification, assigned weapons and any other department equipment.
- (b) Shall be required to continue to comply with all policies and lawful orders of a manager.
- (c) May be temporarily reassigned to a different shift, generally a normal business-hours shift, during the investigation. The employee may be required to remain available for contact at all times during such shift, and will report as ordered.

1009.9 CRIMINAL INVESTIGATION

Where a employee is accused of potential criminal conduct, a separate manager or investigator shall be assigned to investigate the criminal allegations apart from any administrative investigation. Any separate administrative investigation may parallel a criminal investigation.

The Chief Probation Officer shall be notified as soon as practicable when a employee is accused of criminal conduct. The Chief Probation Officer may request a criminal investigation by an outside law enforcement agency.

A employee accused of criminal conduct shall be advised of his/her constitutional rights (Government Code § 3303(h)). The employee should not be administratively ordered to provide any information in the criminal investigation.

No information or evidence administratively coerced from a employee may be provided to anyone involved in conducting the criminal investigation or to any prosecutor.

1009.10 POST-ADMINISTRATIVE INVESTIGATION PROCEDURES

Upon completion of a formal investigation, an investigation report will be prepared and any procedural actions will follow the County Personnel Rules and Regulations.

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1009.10.1 NOTICE OF FINAL DISPOSITION TO THE COMPLAINANT

The Chief Probation Officer or the authorized designee shall ensure that the complainant is notified of the disposition (i.e., sustained, not sustained, exonerated, unfounded) of the complaint (Penal Code § 832.7(e)).

1009.10.2 NOTICE REQUIREMENTS

The disposition of any civilian's complaint shall be released to the complaining party within 30 days of the final disposition. This release shall not include what discipline, if any, was imposed (Penal Code § 832.7(e)).

1009.11 RETENTION OF PERSONNEL INVESTIGATION FILES

All personnel complaints shall be maintained in accordance with the established records retention schedule and as described in the Personnel Files for Sworn Employees Policy.

Seat Belts

1010.1 PURPOSE AND SCOPE

The use of seat belts and other safety restraints significantly reduces the chance of death or injury in case of a traffic collision. This policy establishes guidelines for seat belt and child safety seat use to promote maximum operator and passenger safety, thus reducing the possibility of death or injury as the result of a motor vehicle crash. This policy will apply to all employees operating or riding in department vehicles (Vehicle Code § 27315.5).

1010.2 WEARING OF SAFETY RESTRAINTS

All employees shall wear properly adjusted safety restraints when operating or riding in a seat equipped with restraints, in any vehicle owned, leased or rented by this department while on- or off-duty, or in any privately owned vehicle while on-duty. The employee driving such a vehicle shall ensure that all other occupants are also properly restrained.

Exceptions to the requirement to wear safety restraints may be made only in exceptional situations where, due to unusual circumstances, wearing a seat belt would endanger the employee or the public. Employees must be prepared to justify any deviation from this requirement.

1010.2.1 TRANSPORTING CHILDREN

Children under the age of 8 should be transported in compliance with California's restraint system requirements (Vehicle Code § 27360).

A child may be transported by sworn personnel without the use of a child passenger restraint system in an authorized emergency vehicle if a child passenger restraint system is unavailable and the child is secured by a seat belt (Vehicle Code § 27363(b) and Vehicle Code § 165).

Employees should deactivate, if available, the passenger side airbag when appropriate, such as when transporting a rear-facing infant or child in the front seat.

1010.3 IN-CUSTODY TRANSPORTS

Whenever possible, persons in custody shall be secured in appropriate restraints and placed in the rear seat of a caged vehicle further secured by seat belts. Persons in custody should be in a seated position for which seat belts have been provided by the vehicle manufacturer.

Refer to Policy 802 regarding transports of pregnant persons in custody.

1010.4 INOPERABLE SEAT BELTS

No person shall operate a department vehicle in which the seat belt in the driver's position is inoperable. No person shall be transported in a seating position in which the seat belt is inoperable.

No person shall modify, remove, deactivate or otherwise tamper with the vehicle safety belts, except for vehicle maintenance and repair staff who shall do so only with the express authorization of the Chief Probation Officer.

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Employees who discover an inoperable restraint system shall report the defect to the appropriate supervisor. Prompt action will be taken to replace or repair the system.

Body Armor

1011.1 PURPOSE AND SCOPE

The purpose of this policy is to provide officers with guidelines for the proper use of body armor.

1011.2 POLICY

It is the policy of the Tuolumne County Probation Department to maximize officer safety through the use of body armor in combination with prescribed safety procedures. While body armor provides a significant level of protection, it is not a substitute for the observance of officer safety procedures.

1011.3 ISSUANCE OF BODY ARMOR

The Supervising Probation Officer in charge of equipment shall ensure that body armor is issued to all officers assigned to work in field supervision, when the officer begins service at the Tuolumne County Probation Department and that, when issued, the body armor meets or exceeds the standards of the National Institute of Justice.

The Supervising Probation Officer in charge of equipment shall establish a body armor replacement schedule and ensure that replacement body armor is issued pursuant to the schedule or whenever the body armor becomes worn or damaged to the point that its effectiveness or functionality has been compromised.

1011.3.1 USE OF SOFT BODY ARMOR

Generally, the use of body armor is required subject to the following:

- (a) Officers shall only wear agency-approved body armor.
- (b) Officers shall wear body armor anytime they are participating in a field operation activity or where they could reasonably be expected to take enforcement action and other high risk operations as determined by a supervisor.
- (c) Officer shall wear body armor in accordance with the bargaining unit's MOU.
- (d) Officers may be excused from wearing body armor when they are functioning primarily in an administrative or support capacity and could not reasonably be expected to take enforcement action.
- (e) Body armor shall be worn when an officer is armed with a department issued firearm or taking part in Department range training, unless the officer is carrying concealed in the office or while armed in court.
- (f) Wearing body armor while carrying concealed or while armed and in court is optional.

1011.3.2 INSPECTIONS OF BODY ARMOR

The Supervising Probation Officer in charge of equipment should ensure that body armor is worn and maintained in accordance with this policy through routine observation and periodic

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inspections. Annual inspections of body armor should be conducted for fit, cleanliness, and signs of damage, abuse and wear.

1011.3.3 CARE AND MAINTENANCE OF SOFT BODY ARMOR

Soft body armor should never be stored for any period of time in an area where environmental conditions (e.g., temperature, light, humidity) are not reasonably controlled (e.g., normal ambient room temperature/humidity conditions), such as in automobiles or automobile trunks.

Soft body armor should be cared for and cleaned pursuant to the manufacturer's care instructions provided with the soft body armor. The instructions can be found on labels located on the external surface of each ballistic panel. The carrier should also have a label that contains care instructions. Failure to follow these instructions may damage the ballistic performance capabilities of the armor. If care instructions for the soft body armor cannot be located, contact the manufacturer to request care instructions.

Soft body armor should not be exposed to any cleaning agents or methods not specifically recommended by the manufacturer, as noted on the armor panel label.

Soft body armor should be replaced in accordance with the manufacturer's recommended replacement schedule.

1011.4 COUNTY RANGE MASTERS RESPONSIBILITIES

The Range Master should:

- (a) Monitor technological advances in the body armor industry for any appropriate changes to Department approved body armor.
- (b) Assess weapons and ammunition currently in use and the suitability of approved body armor to protect against those threats.
- (c) Provide training that educates officers about the safety benefits of wearing body armor.

Personnel Files for Sworn Employees

1012.1 PURPOSE AND SCOPE

This section governs the maintenance, retention and access to peace officer personnel files in accordance with established law. It is the policy of this department to maintain the confidentiality of peace officer personnel records pursuant to Penal Code § 832.7.

1012.2 PERSONNEL FILES DEFINED

Pursuant to Penal Code § 832.8, peace officer personnel records may include any file maintained under an individual officer's name relating to:

- (a) Personal data, including marital status, family members, educational and employment history, or similar information.
- (b) Medical history.
- (c) Election of employee benefits.
- (d) Employee advancement, appraisal, or discipline.
- (e) Complaints, or investigations of complaints, concerning an event or transaction in which the officer participated, or which the officer perceived, and pertaining to the manner in which the officer performed official duties.
- (f) Any other information the disclosure of which would constitute an unwarranted invasion of personal privacy.

1012.3 EMPLOYEE RECORD LOCATIONS

Employee records will generally be maintained in any of the following:

Department File - That file which is maintained in the office of the Chief Probation Officer as a permanent record of a sworn officer's employment with this department.

Division File - Any file which is separately maintained internally by an employee's supervisor(s) within an assigned division for the purpose of completing timely performance evaluations.

Supervisor Log Entries - Any written comment, excluding actual performance evaluations, made by a supervisor concerning the conduct of an employee of this department.

Training File - Any file which documents the training records of an employee.

Internal Affairs Files - Those files that contain complaints of employee misconduct and all materials relating to the investigation into such allegations, regardless of disposition.

Medical File - That file which is maintained separately that exclusively contains material relating to an employee's medical history.

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1012.4 CONFIDENTIALITY OF ALL PERSONNEL FILES

- (a) Pursuant to Penal Code § 832.7, all of the above-defined personnel records shall be deemed confidential and shall not be subject to disclosure except pursuant to the discovery procedures set forth in Evidence Code § 1043, et seq. or in accordance with applicable federal discovery laws. Nothing in this section is intended to preclude review of personnel files by the County Counsel or other attorneys or representatives of the County in connection with official business.

1012.5 REQUESTS FOR DISCLOSURE

Only written requests for the disclosure of any information contained in any peace officer personnel record will be considered. Since the format of such requests may be strictly governed by law with specific responses required, all such requests shall be promptly brought to the attention of the Division Manager, the Chief Probation Officer or other person charged with the maintenance of such records.

Upon receipt of any such request, the responsible person shall notify the affected employee(s) as soon as practicable that such a request has been made (Evidence Code § 1043(a)).

The responsible person shall further ensure that an appropriate response to the request is made in a timely manner, consistent with applicable law. In many cases, this will require assistance of approved and available legal counsel.

All requests for disclosure, which result in access to an employee's personnel file(s), shall be logged in the corresponding file.

1012.5.1 RELEASE OF CONFIDENTIAL INFORMATION

Except as provided by this policy or pursuant to lawful process, no information contained in any confidential peace officer personnel file shall be disclosed to any unauthorized person(s) without the express consent of the involved officer or written authorization of the Chief Probation Officer or his or her designee.

Any person who maliciously, and with the intent to obstruct justice or the due administration of the laws, publishes, disseminates, or otherwise discloses the residence address or telephone number of any member of this department may be guilty of a misdemeanor (Penal Code § 146e).

Pursuant to Penal Code § 832.7(e), the disposition of any citizen's complaint shall be released to the complaining party within 30 days of the final disposition. This release shall be limited to the disposition and shall not include what discipline, if any was imposed.

The Department may also release any factual information concerning a disciplinary investigation if the officer who is the subject of the investigation (or the officer's representative) publicly makes a statement which is published in the media and which the officer (or representative) knew to be false. The disclosure of such information, if any, shall be limited to facts that refute any such false statement (Penal Code § 832.7(d)).

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1012.6 EMPLOYEE ACCESS TO OWN FILE

Any employee may request access to his/her own personnel file(s) during the normal business hours of the individual(s) responsible for maintaining such file(s). Any employee seeking the removal of any item from his/her personnel file shall file a written request to the Chief Probation Officer through the chain of command as set forth in the applicable MOU.

Employees may be restricted from accessing files containing any of the following information:

- (a) Ongoing Internal affairs investigations to the extent that it could jeopardize or compromise the investigation pending final disposition or notice to the employee of the intent to discipline.
- (b) Confidential portions of Internal Affairs files which have not been sustained against the employee.

1012.7 TYPES OF PERSONNEL FILES

Peace officer personnel files can be located in any of the following places:

1012.7.1 DEPARTMENT FILE

The Department file should contain, but is not limited to, the following:

- (a) Performance evaluation reports regularly completed by appropriate supervisor and signed by the affected employee shall be permanently maintained.
- (b) Records of all training (original or photocopies of available certificates, transcripts, diplomas and other documentation) and education shall be maintained.
 - 1. It shall be the responsibility of the involved employee to provide the Training Manager or immediate supervisor with evidence of completed training/education in a timely manner.
 - 2. The Training Manager or supervisor shall ensure that copies of such training records are placed in the employee's department file.
- (c) Disciplinary action:
 - 1. Disciplinary action resulting from sustained internally initiated complaints or observation of misconduct shall be maintained in the individual employee's department file at least five years (Government Code § 34090).
 - 2. Disciplinary action resulting from a sustained citizen's complaint shall be maintained in the individual employee's department file at least five years (Penal Code § 832.5).
 - 3. Investigations of complaints which result in a finding of not-sustained, unfounded or exonerated shall not be placed in the employee's department file, but will be separately maintained for the appropriate retention period in the internal affairs file.

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- (d) Adverse comments such as supervisor log entries may be retained in the department file or division file after the employee has had the opportunity to read and initial the comment and for a period up to two years Government Code § 3305).
 - 1. Once an employee has had an opportunity to read and initial any adverse comment prior to entry into a file, the employee shall be given the opportunity to respond in writing to such adverse comment within 30 days (Government Code § 3306).
 - 2. Any such employee response shall be attached to and retained with the original adverse comment.
 - 3. If an employee refuses to initial or sign an adverse comment, at least one supervisor should note the date and time of such refusal on the original comment. Such a refusal, however, shall not be deemed insubordination nor shall it prohibit the entry of the adverse comment into the employee's file.
- (e) Commendations shall be retained in the employee's department file, with a copy provided to the involved employee.
- (f) Personnel Action Reports reflecting assignments, promotions and other changes in the employee's employment status shall be permanently retained.
- (g) A photograph of the employee shall be permanently retained.

1012.7.2 DIVISION FILE

The Division File should contain, but is not limited to, the following:

- (a) Supervisor log entries, notices to correct and other materials intended to serve as a foundation for the completion of timely Performance Evaluations
 - 1. All materials intended for this interim file shall be provided to the employee prior to being placed in the file in accordance with Government Code §§ 3305 and 3306.
 - 2. Duplicate copies of items that will also be included in the employee's department file may be placed in this interim file in anticipation of completing any upcoming performance evaluation.
 - 3. Once the permanent performance evaluation form has been made final, the underlying foundational material(s) and/or duplicate copies may be purged in accordance with this policy.
- (b) All rules of confidentiality and disclosure shall apply equally to the division file.

1012.7.3 INTERNAL AFFAIRS FILE

Internal affairs files shall be maintained under the exclusive control of the Internal Affairs Investigator in conjunction with the office of the Chief Probation Officer. Access to these files

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may only be approved by the Chief Probation Officer or the supervisor of the Internal Affairs Investigator. These files shall contain:

- (a) The complete investigation of all formal complaints of employee misconduct, regardless of disposition
 - 1. Each investigation file shall be sequentially numbered within a calendar year (e.g., yy-001, yy-002).
 - 2. Each investigation file arising out of a formal citizen's complaint or a complaint involving a discriminatory harassment or hostile work environment shall be maintained no less than five years (Penal Code § 832.5(b)). Investigation files arising out of other internally generated complaints shall be maintained no less than two years (Government Code § 34090).
- (b) Investigations that result in other than a sustained finding shall be maintained for the minimum statutory period but may not be used by the Department to adversely affect an employee's career (Penal Code § 832.5 (c)).

1012.7.4 TRAINING FILES

An individual training file shall be maintained by the Training Manager for each employee. Training files will contain records of all training and education mandated by law or the Department, including firearms qualifications and mandated annual proficiency requalification.

- (a) It shall be the responsibility of the involved employee to provide the Training Manager or immediate supervisor with evidence of completed training/education in a timely manner.
- (b) The Training Manager or supervisor shall ensure that copies of such training records are placed in the employee's training file.

1012.7.5 MEDICAL FILE

A medical file shall be maintained separately from all other files and shall contain all documents relating to the employee's medical condition and history, including but not limited to the following:

- (a) Materials relating to medical leaves of absence.
- (b) Documents relating to workers compensation claims or receipt of short or long term disability benefits.
- (c) Fitness for duty examinations, psychological and physical examinations, follow-up inquiries and related documents.
- (d) Medical release forms, doctor's slips and attendance records which reveal an employee's medical condition.
- (e) Any other documents or material which reveals the employee's medical history or medical condition, including past, present, or future anticipated mental, psychological, or physical limitations.

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1012.8 PURGING OF FILES

Formal citizen complaints and all related files not pending litigation or other ongoing legal proceedings may be purged no sooner than five years from the underlying complaint date (Penal Code § 832.5).

All other disciplinary files and investigations of non-citizen initiated complaints not pending litigation or other ongoing legal proceedings may be purged no sooner than five years from the underlying complaint date (Government Code § 34090; Government Code § 26202).

- (a) Each supervisor responsible for completing the employee's performance evaluation shall also determine whether any prior sustained disciplinary file should be retained beyond the statutory period, or other period as agreed to and memorialized in the MOU, for reasons other than pending litigation or other ongoing legal proceedings.
- (b) If a supervisor determines that records of prior discipline should be retained beyond the applicable statutory period, approval for such retention shall be obtained through the chain of command from the Chief Probation Officer.
- (c) During the preparation of each employee's performance evaluation, all complaints and discipline should be reviewed to determine the relevancy, if any, to progressive discipline, training and career development. If, in the opinion of the Chief Probation Officer, a complaint or disciplinary action beyond the statutory retention period is no longer relevant, all records of such matter may be destroyed pursuant to resolution.

Employee Performance Evaluations

1013.1 PURPOSE AND SCOPE

The purpose of a work performance evaluation is to provide a systematic method of measuring, recording and improving the work effectiveness and development of all County employees with permanent status in their current classification. Work performance evaluations are intended to be supportive and corrective and may reveal work inefficiencies that require corrective or disciplinary action.

1013.2 STANDARDS

County employment requires establishment of standards for both conduct and production. Production standards refer to work achievement required for an individual job and are the responsibility of the employing department. Conduct standards refer to acceptable behavior and enforcement and are the responsibility of the employing department concurrent with these rules and department standards. Conduct standards may be established by the State, County or employing department and may be expressed in law, rules, regulations, policy or generally accepted practices.

1013.3 DEPARTMENTAL RESPONSIBILITY

It is the duty of the departments to accurately evaluate the work accomplishments and conduct of employees, to inform employees of their evaluations in writing, and to assist employees in improving work effectiveness.

1013.4 EMPLOYEE RESPONSIBILITY

It is the responsibility of the employee to meet and to strive to exceed the minimum standards established for work accomplishment and conduct, to strive to improve work effectiveness, and to perform at highest competency levels.

1013.5 EVALUATIONS

A systematic method of periodic evaluations of an employee's performance shall be established. Such evaluations shall be made at least annually and whenever needed to maintain a record of the employee's work performance. The evaluations shall include the following elements:

- (a) A written record to be reviewed and acknowledged in writing by the employee. No change shall be made after review and acknowledgment.
- (b) A copy for the employee.
- (c) An evaluator and at least one reviewing official, except for evaluations of department heads and assistant department heads or when the evaluator is the department head. The evaluator shall be the employee's immediate supervisor.
- (d) A discussion between the evaluator and the employee being evaluated on the contents of the performance evaluation.

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- (e) A provision whereby an employee may submit a written answer or exception to any evaluation or statement made on the evaluation which must be filed with the evaluator and forwarded to the department head. Such answer or exception must be acknowledged by the department head and shall become an official part of the evaluation.

Work performance evaluations are not subject to appeal.

1013.5.1 USE

Evaluations of work performance shall be considered for all relevant personnel actions and shall be reviewed for training and other personnel management needs. An overall evaluation of "Meets Job Standards" or higher will satisfy the requirement for certification and recertification of competency which may be required by these rules.

1013.5.2 RECORDS

Each department shall keep work performance evaluations in a confidential personnel file. All copies of performance evaluations, commendations, penalties or any other documents that have a bearing on employment status shall be forwarded to the Human Resources Office which may only then be considered part of the employee's official record. Work performance evaluations, documents of reprimand or penalty or any other record or document that has a bearing on employment status may be removed from an employee's official personnel file only upon request of the employee and approval by the department head and the personnel officer. Material so removed shall be given to the affected employee.

Employee Commendations

1014.1 PURPOSE AND SCOPE

Special recognition may be in order whenever an employee performs his/her duties in an exemplary manner. This procedure provides general guidelines for the commending of exceptional employee performance.

1014.2 WHO MAY MAKE COMMENDATIONS

A written commendation may be made by any supervisor regarding any other employee of the Department, provided the reporting person is superior in rank or is the person-in-charge of the individual being commended. Any employee may recommend a commendation to the supervisor of the employee subject to commendation.

1014.3 COMMENDABLE ACTIONS

A meritorious or commendable act by an employee of this department may include, but is not limited to, the following:

- Superior handling of a difficult situation by an employee
- Conspicuous bravery or outstanding performance by any employee of the Department
- Any action or performance that is above and beyond the typical duties of an employee

1014.3.1 COMMENDATION MEMORANDUM

The Commendation Memorandum shall be used to document the commendation of the employee and shall contain the following:

- (a) Employee name and assignment at the date and time of the commendation
- (b) A brief account of the commendable action shall be documented in the report
- (c) Signature of the commending supervisor or Division Manager

Completed memorandums shall be forwarded to the Chief Probation Officer for his/her review and approval.

The Chief Probation Officer will return the commendation to the employee for his/her signature.

The report will then be placed into the employee's personnel file.

Fitness for Duty

1015.1 PURPOSE AND SCOPE

All officers are required to be free from any physical, emotional, or mental condition which might adversely affect the exercise of peace officer powers. The purpose of this policy is to ensure that all officers of this department remain fit for duty and able to perform their job functions (Government Code § 1031).

1015.2 EMPLOYEE RESPONSIBILITIES

- (a) It shall be the responsibility of each member of this department to maintain good physical condition sufficient to safely and properly perform essential duties of their position.
- (b) Each member of this department shall perform his/her respective duties without physical, emotional, and/or mental constraints.
- (c) During working hours, all employees are required to be alert, attentive, and capable of performing his/her assigned responsibilities.
- (d) Any employee who feels unable to perform his/her duties shall promptly notify a supervisor. In the event that an employee believes that another employee is unable to perform his/her duties, such observations and/or belief shall be promptly reported to a supervisor.

1015.3 SUPERVISOR RESPONSIBILITIES

- (a) A supervisor observing an employee, or receiving a report of an employee who is perceived to be, unable to safely perform his/her duties due to a physical or mental condition shall take prompt and appropriate action in an effort to resolve the situation.
- (b) Whenever feasible, the supervisor should attempt to ascertain the reason or source of the problem and in all cases a preliminary evaluation should be made in an effort to determine the level of inability of the employee to perform his/her duties.
- (c) In the event the employee appears to be in need of immediate medical or psychiatric treatment, all reasonable efforts should be made to notify a manager or Chief Probation Officer and the Human Resources Manager of the situation as soon as possible after notifying Emergency Services if required.
- (d) In conjunction with a manager or Chief Probation Officer and Human Resources Manager, a determination should be made whether or not the employee should be temporarily relieved from his/her duties.
- (e) The Chief Probation Officer shall be promptly notified in the event that any employee is relieved from duty.

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1015.4 NON-WORK RELATED CONDITIONS

Any employee suffering from a non-work related condition which warrants a temporary relief from duty may be required to use sick leave or other paid time off (PTO) in order to obtain medical treatment or other reasonable rest period.

1015.5 WORK RELATED CONDITIONS

Any employee suffering from a work related condition which warrants a temporary relief from duty shall be required to comply with personnel rules and guidelines for processing such claims.

Upon the recommendation of a manager or unit supervisor and concurrence of the Chief Probation Officer, any employee whose actions or use of force in an official capacity result in death or serious injury to another may be temporarily removed from regularly assigned duties and/or placed on paid administrative leave for the wellbeing of the employee and until such time as the following may be completed:

- (a) A determination that the employee's conduct appears to be in compliance with all departmental or county policies within the purview of the law and, if appropriate.
- (b) The employee has had the opportunity to receive necessary counseling and/or psychological clearance to return to full duty.

1015.6 PHYSICAL AND PSYCHOLOGICAL EXAMINATIONS

- (a) Whenever circumstances reasonably indicate that an employee is unfit for duty, the Chief Probation Officer may serve that employee with a written order to undergo a physical and/or psychological examination in cooperation with Department of Human Resources to determine the level of the employee's fitness for duty. The order shall indicate the date, time and place for the examination.
- (b) The examining physician or therapist will provide the Department with a report indicating that the employee is either fit for duty or, if not, listing any functional limitations which limit the employee's ability to perform job duties (Civil Code § 56.10(c)(8)(A)). If the employee places his/her condition at issue in any subsequent or related administrative action/grievance, the examining physician or therapist may be required to disclose any and all information which is relevant to such proceeding (Civil Code § 56.10(c)(8)(B)).
- (c) In order to facilitate the examination of any employee, the Department will provide all appropriate documents and available information to assist in the evaluation and/or treatment.
- (d) All reports and evaluations submitted by the treating physician or therapist shall be part of the employee's confidential personnel file.
- (e) Any employee ordered to receive a fitness for duty examination shall comply with the terms of the order and cooperate fully with the examining physician or therapist

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regarding any clinical interview, tests administered or other procedures as directed. Any failure to comply with such an order and any failure to cooperate with the examining physician or therapist may be deemed insubordination and shall be subject to discipline up to and including termination.

- (f) Once an employee has been deemed fit for duty by the examining physician or therapist, the employee will be notified to resume his/her duties.

1015.7 LIMITATION ON HOURS WORKED

Absent emergency operations employees should not work more than:

- 16 hours in one day (24 hour) period or
- 30 hours in any 2 day (48 hour) period or
- 84 hours in any 7 day (168 hour) period

Except in very limited circumstances employees should have a minimum of 8 hours off between shifts. Supervisors should give consideration to reasonable rest periods and are authorized to deny overtime or relieve to off-duty status any employee who has exceeded the above guidelines.

Limitations on the number of hours worked apply to shift changes, shift trades, rotation, holdover, training, general overtime and any other work assignments.

1015.8 APPEALS

An employee who is separated from paid employment or receives a reduction in salary resulting from a fitness for duty examination shall be entitled to an administrative appeal as outlined in the employee's respective MOUs (Article 15).

Out-of-County Travel

1016.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidelines for employees traveling outside Tuolumne County on official business.

1016.2 LIMITATIONS

Travel outside Tuolumne County is limited to trips for the following purposes:

- (a) Transportation or visitation of juveniles in placement facilities located out of the county.
- (b) Transportation of juveniles to or from other agencies or public transportation terminals.
- (c) Transportation of adult probationers to treatment programs.
- (d) Attendance at approved meetings, conferences, conventions, or training courses.
- (e) Other activities as directed by or approved by the Chief Probation Officer or Division Manager.

1016.3 COUNTY VEHICLE USE

All out-of-county trips shall be made in a county vehicle unless prior approval of the Chief Probation Officer is received.

Employees on out-of-county trips should be constantly aware that they are highly visible representatives of Tuolumne County.

- (a) County cars are not to be used for general entertainment purposes, other than necessary travel for meals and other legitimate personal needs.
- (b) An employee consuming an alcoholic beverage shall not operate a county vehicle until it is safe and prudent to do so.
- (c) Upon completion of the purpose of the trip in a county vehicle, the employee shall return directly to the department or other place of origin without side trips or unnecessary delays.

1016.4 EXPENSES

Reimbursement for expenses incurred during approved out-of-county travel shall be in accordance with the prevailing rates adopted by the Board of Supervisors.

Allowable expenses include the following:

1. Lodging
2. Meals, excluding alcoholic beverages
3. Public transportation expenses

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4. Bridge, ferry and toll road fees
5. Parking fees
6. Tuition expenses for training
7. Private vehicle mileage, when applicable

Meal Periods and Breaks

1017.1 PURPOSE AND SCOPE

This policy regarding meals and breaks, insofar as possible shall conform to the policy governing all County employees.

1017.1.1 MEAL PERIODS

All employees working more than five hours per day shall take a meal break on their own time during the course of the work day. During normal operating hours a lunch break should be taken between the hours of 12:00 p.m. and 1:00 p.m. The meal break may not be taken at the beginning or end of the work day, and is customarily 30 minutes to one hour in length. Should you require an alternative lunch break schedule, prior approval should be obtained from your supervisor.

It is recognized sworn officers may not always be able to take a lunch break during normal hours due to an unforeseen incidents in the field, juveniles in custody or completion of a Court report.

1017.1.2 15 MINUTE BREAKS

Each employee is entitled to a 15-minute break, near the midpoint, for each four-hour work period. However, they may not be skipped and used to credit or to offset normal work hours. Only one 15-minute break shall be taken during each four hours of duty. No breaks shall be taken during the first or last hour of an employee's shift unless approved by a supervisor.

Payroll Record Procedures

1019.1 PURPOSE AND SCOPE

To establish procedures for employees reporting work hours for payroll purposes.

1019.1.1 RESPONSIBILITY FOR COMPLETION OF PAYROLL RECORDS

- (a) Employees are responsible for the accurate and timely submission of payroll records for the payment of wages.
- (b) Time sheets must reflect the actual hours worked and must reflect all sick leave, vacation and other authorized absences from work.
 - 1. The intentional inaccurate reporting of hours worked is grounds for disciplinary action.
- (c) All time sheets must be signed by the employee and submitted to the department payroll clerk.
- (d) It is the sole responsibility of every individual employee to submit an accurate time sheet in a timely fashion.

1019.1.2 TIME REQUIREMENTS

All employees are paid on a bi-weekly basis usually on Friday with certain exceptions such as holidays. Time sheets shall be completed, including electronic Duty Report Slip, doctor's note, and CHITS and submitted to the designated Payroll Clerk no later than 9:00 a.m. on the Friday morning before the end of the pay period, unless on-call or on-duty over the weekend. Employees granted time off must submit their time sheets prior to the scheduled due date if their time off is scheduled on the date time sheets are due.

Overtime Compensation Requests

1020.1 PURPOSE AND SCOPE

It is the policy of the Department to compensate non-exempt salaried employees who work authorized overtime either by payment of wages as agreed and in effect through the Memorandum of Understanding (MOU), or by the allowance of accrual of compensatory time off. In order to qualify for either, the employee must complete and submit a Request for Overtime Payment (CHIT) as soon as practical after overtime is worked.

1020.1.1 DEPARTMENT POLICY

Because of the nature of Probation work, and the specific needs of the Department, a degree of flexibility concerning overtime policies must be maintained.

Non-exempt employees are not authorized to volunteer work time to the Department. All requests to work overtime shall be approved in advance by a manager. If circumstances do not permit prior approval, then approval shall be sought as soon as practical whenever possible, employees shall adjust their work schedules to avoid the accumulation of overtime in a given workweek. When unforeseen circumstances require an employee to work longer than expected on a given day or when an employee anticipates the need to work longer on a future date, the employee shall communicate the situation to his or her supervisor, and with the supervisor's permission adjust his or her work schedule to prevent the need to work overtime.

Short periods of work at the end of the normal duty day (e.g., less than one hour in duration) may be handled unofficially between the supervisor and the employee by flexing a subsequent shift schedule to compensate for the time worked rather than by submitting requests for overtime payments. If the supervisor directs the employee to complete a CHIT for such a period, the employee shall comply.

With the approval of the Chief Probation Officer the individual employee may request compensatory time in lieu of receiving overtime payment, however, the employee may not exceed the amount allowed by their respective MOUs.

1020.2 REQUEST FOR OVERTIME COMPENSATION

Employees shall submit all overtime compensation requests to their Manager or the Chief Probation Officer as soon as practicable.

Failure to submit a request for overtime compensation in a timely manner may result in discipline.

1020.2.1 MANAGERS RESPONSIBILITY

Managers, after approving payment, will then forward the form to the Chief Probation Officer for review.

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1020.3 ACCOUNTING FOR OVERTIME WORKED

Employees are to record the actual time worked in an overtime status. In some cases, the Memorandum of Understanding provides that a minimum number of hours will be paid, (e.g., call-back).

1020.3.1 ACCOUNTING FOR PORTIONS OF AN HOUR

When accounting for less than a full hour, time worked shall be rounded up to the nearest quarter of an hour as indicated by the following chart:

| <u>TIME WORKED</u> | <u>INDICATE ON CARD</u> |
|--------------------|-------------------------|
| 1 to 15 minutes | .25 |
| 16 to 30 minutes | .50 |
| 31 to 45 minutes | .75 |
| 46 to 60 minutes | 1 hour |

1020.3.2 VARIATION IN TIME REPORTED

Where two or more employees are assigned to the same activity, case, or court trial and the amount of time for which payment is requested varies from that reported by the other officer, the Manager or other approving supervisor may require each employee to include the reason for the variation on the back of the overtime payment request.

Outside Employment

1021.1 PURPOSE AND SCOPE

No employee in the classified service shall hold any other employment or private commercial enterprise if:

- (a) It would physically or mentally impair or hamper the employee in the performance of County duties; or
- (b) It would create a conflict of interest between the County and the employee; or
- (c) It would be a cause of action under the disciplinary provisions of the County Personnel Rules or appropriate Memorandum of Understanding.

The department head reserves the right to prohibit any outside employment on the part of any County employee under the above circumstances. If a department head prohibits such activity, the employee will be given appropriate notice to terminate such outside employment or be terminated from county service. County equipment, time, or property may not be used for any non-County work.

1021.1.1 DEFINITIONS

Outside Employment - Any employee of this department who receives wages, compensation or other consideration of value from another employer, organization or individual not affiliated directly with this department for services, product(s) or benefits rendered.

Outside Overtime - Any employee of this department who performs duties or services on behalf of an outside organization, company, or individual within this jurisdiction. Such outside overtime shall be requested and scheduled directly through this department so that the Department may be reimbursed for the cost of wages and benefits (i.e., special assignments through other law enforcement agencies).

1021.2 OBTAINING APPROVAL

No employee of this department may engage in any outside employment without first obtaining prior written approval of the Chief Probation Officer. Failure to obtain prior written approval for outside employment or engaging in outside employment prohibited by this policy may lead to disciplinary action.

In order to obtain approval for outside employment, the employee must complete an Outside Employment Memorandum which shall be submitted to a Manager. The memorandum will then be forwarded to the Chief Probation Officer for consideration.

If approved, the employee will be provided with a copy of the approved letter. Unless otherwise indicated in writing on the approved letter, the authorization will be valid through the end of the calendar year in which the outside employment is approved. Any employee seeking to renew authorization shall submit a new Outside Employment Memorandum in a timely manner.

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Any employee seeking approval of outside employment, whose request has been denied, shall be provided with a written reason for the denial of the request at the time of the denial (Penal Code § 70(e)(3)).

1021.2.1 APPEAL OF DENIAL OF OUTSIDE EMPLOYMENT

If an employee's outside employment request is denied or withdrawn by the Department, the employee may file a written notice of appeal to the Chief Probation Officer within ten days of the date of denial.

If the employee's appeal is denied, the employee may file a grievance pursuant to the procedure set forth in the current Memorandum of Understanding (MOU).

1021.3 PROHIBITED OUTSIDE EMPLOYMENT

Consistent with the provisions of Government Code § 1126, the Department expressly reserves the right to deny any outside employment request submitted by an employee seeking to engage in any activity which:

- (a) Involves the employee's use of departmental time, facilities, equipment or supplies, the use of the Department badge, uniform, prestige or influence for private gain or advantage
- (b) Involves the employee's receipt or acceptance of any money or other consideration from anyone other than this department for the performance of an act which the employee, if not performing such act, would be required or expected to render in the regular course or hours of employment or as a part of the employee's duties as a member of this department
- (c) Involves the performance of an act in other than the employee's capacity as a member of this department that may later be subject directly or indirectly to the control, inspection, review, audit or enforcement of any other employee of this department
- (d) Involves time demands that would render performance of the employee's duties for this department less efficient

1021.4 DEPARTMENT RESOURCES

Employees are prohibited from using any department equipment or resources in the course of or for the benefit of any outside employment. This shall include the prohibition of access to official records or databases of this department or other agencies through the use of the employee's position with this department.

1021.4.1 REVIEW OF FINANCIAL RECORDS

Employees approved for outside employment expressly agree that their personal financial records may be requested and reviewed/audited for potential conflict of interest (Government Code § 3308; Government Code § 1126). Prior to providing written approval for an outside employment position, the Department may request that an employee provide his/her personal financial records for review/audit in order to determine whether a conflict of interest exists. Failure of the employee to provide the requested personal financial records could result in denial of the off-duty work

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permit. If, after approving a request for an outside employment position, the Department becomes concerned that a conflict of interest exists based on a financial reason, the Department may request that the employee provide his/her personal financial records for review/audit. If the employee elects not to provide the requested records, his/her off-duty work permit may be revoked.

1021.5 CHANGES IN OUTSIDE EMPLOYMENT STATUS

If an employee terminates his or her outside employment during the period of a valid permit, the employee shall promptly submit written notification of such termination to the Chief Probation Officer. Any subsequent request for renewal or continued outside employment must thereafter be processed and approved through normal procedures set forth in this policy.

Employees shall also promptly submit in writing to the Chief Probation Officer any material changes in outside employment including any change in the number of hours, type of duties, or demands of any approved outside employment. Employees who are uncertain whether a change in outside employment is material are advised to report the change.

1021.6 OUTSIDE EMPLOYMENT WHILE ON DISABILITY

Department members engaged in outside employment who are placed on disability leave or modified/light-duty shall inform the Manager assigned to their unit in writing within five days whether or not they intend to continue to engage in such outside employment while on such leave or light-duty status. If the employee is found to be performing outside employment that violates the modified/light-duty statement, the action will constitute fraud and appropriate action will be taken against the employee. The Manager shall review the duties of the outside employment along with any related doctor's orders, and make a recommendation to the Chief Probation Officer whether such outside employment should continue.

In the event the Chief Probation Officer determines that the outside employment should be discontinued or if the employee fails to promptly notify his/her supervisor of his/her intentions regarding their work permit, a notice of revocation of the member's permit will be forwarded to the involved employee, and a copy attached to the original work permit.

Criteria for revoking the outside employment permit include, but are not limited to, the following:

- (a) The outside employment is medically detrimental to the total recovery of the disabled employee, as indicated by the County's professional medical advisors.
- (b) The outside employment performed requires the same or similar physical ability, as would be required of an on-duty member.
- (c) The employee's failure to make timely notice of their intentions to their supervisor.

When the disabled employee returns to full duty with the Tuolumne County Probation Department, a request (in writing) may be made to the Chief Probation Officer to restore the permit.

On Duty Injuries

1022.1 PURPOSE AND SCOPE

The purpose of this policy is to provide for the reporting of on-duty injuries, occupational illnesses, or deaths to Risk Management, to ensure proper medical attention is received, and document the circumstances of the incident.

1022.2 WORKER'S COMPENSATION FUND REPORTS

1022.2.1 INJURIES REQUIRING MEDICAL CARE

All work related injuries and work related illnesses requiring medical care must be reported to the Probation Business Manager and the Human Resource Risk Management Officer. A claim form shall be provided to the injured employee by the immediate supervisor or manager within 24 hours from the time the injury was discovered, excluding weekends and holidays.

1022.2.2 ACCIDENT DEFINED

Accident - is defined as any occurrence from which bodily injury or property damage may result, regardless of whether any injury or damage actually does occur (e.g., exposure where no immediate injury is apparent).

1022.2.3 EMPLOYEE'S RESPONSIBILITY

Any employee sustaining any work-related injury or illness, as well as any employee who is involved in any accident while on duty shall report such injury, illness or accident as soon as practical to his/her supervisor.

Any employee observing or learning of a potentially hazardous condition is to promptly report the condition to his/her immediate supervisor.

Any employee sustaining a work-related injury or illness that requires relief from duty is required to be examined/treated by a doctor.

Any employee sustaining a work-related injury or illness that requires relief from duty is required to notify the Department of any change in work modification or restriction or anticipated duration of the absence.

When appropriate, an employee being treated for an on-duty injury should inform the attending physician that a modified duty assignment may be available at the Department. Limited-service duty may be available for the employees whose injuries prevent resumption of regular duties.

An injured employee or employee who has suffered a work-related illness shall report as soon as practical to his/her immediate supervisor the the injury/incident and the extent and duration of any work restrictions if they are known. In addition, such employees are required to promptly submit all medical releases, whether partial or full releases, to their supervisor.

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1022.2.4 SUPERVISOR/MANAGER RESPONSIBILITY

A manager learning of any work-related injury, illness or accident shall promptly prepare the appropriate forms. Updated copies of forms with instructions are available from the County Risk Management home page (<http://www.tuolumnecounty.ca.gov/index.aspx?NID=413>).

For work-related accidents, injuries or illness not requiring professional medical care, a Supervisor's Investigation Report of Injury form shall be completed. All copies of the completed form shall be forwarded through the chain of command and a copy sent to Human Resources.

Every injured employee must be provided with an Employee's Claim for Workers' Compensation Benefits Form (DWC-1) within 24 hours, regardless of the nature of illness or injury.

Every injured employee shall sign the Tuolumne County Receipt of Employee Claim Form.

When an accident, injury, or illness is reported initially on the Supervisor's Investigation Report of Injury form and the employee subsequently requires professional medical care, the State of California Employer's Report of Occupational Injury or Illness form shall then be completed by Human Resource Risk Management staff. The injured employee shall also sign the form in the appropriate location.

Copies of any reports documenting the accident or injury should be forwarded to the Chief Probation Officer as soon as they are completed.

1022.2.5 CHIEF PROBATION OFFICER RESPONSIBILITY

The Chief Probation Officer shall review and forward copies of the report to the Human Resources Department. Any copies of the report and any related documents retained by the Department shall be filed in the department's Workman's Comp file and not in the employee's personnel file.

1022.3 INJURY NOT REQUIRING MEDICAL ATTENTION

Those injuries and illnesses not requiring medical attention shall be recorded on a Supervisor's Investigation Report. This report shall be completed and signed by a Manager.

This report shall be signed by the affected employee, indicating that he/she did not seek medical attention at the time of the report. By signing this form, the employee will not preclude his/her ability to seek medical attention later. This form shall be sent to Human Resources.

1022.4 SETTLEMENT OF INJURY CLAIMS

Occasionally, an employee's work-related injury results from the negligent or wrongful acts of another, for which the employee, the County, and/or other insurers are entitled to recover civilly. To ensure that the County's interests are protected and that the employee has the benefit of the County's experience in these matters, the following procedure is to be followed:

1022.4.1 EMPLOYEE TO REPORT INITIAL CONTACTS

When an employee sustains work-related injuries caused by another person and is then approached by such person or an agent, insurance company, or attorney and offered a settlement

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of claims, that employee shall take no action other than to make a written report of this contact to his/her supervisor as soon as possible.

This written report shall be sent to Human Resources.

1022.4.2 SETTLEMENT

All settlements are handled by the Human Resource Risk Management Officer and County Counsel.

Personal Appearance Standards

1023.1 PURPOSE AND SCOPE

In order to project uniformity and neutrality toward the public and other members of the department, employees shall maintain their personal hygiene and appearance to project a professional image appropriate for this department and for their assignment.

1023.2 GROOMING STANDARDS

Unless otherwise stated and because deviations from these standards could present officer safety issues, the following appearance standards shall apply to all employees, except those whose current assignment would deem them not appropriate, and where the Chief Probation Officer has granted exception.

1023.2.1 HAIR

Hair shall be clean and trimmed. Hairstyles shall be appropriate and professional in appearance, and consistent with safety so that hair does not impede the ability to defend against personal assault.

- (a) Hair coloring shall not contain unusual contrasts nor be outside the range of natural colors.
- (b) Non-sworn employees are expected to maintain appropriate and professional hairstyles, beards, sideburns, and mustaches which must be clean and neatly groomed. Hair must be properly restrained for its length and job assignment.
- (c) Sworn staff shall keep their hair trimmed to a length so that it cannot be readily grabbed by an assailant and does not fall over the eyebrows; or sworn-staff with excessively long hair shall keep their hair tied or pinned back. Beard moustache and sideburn styles shall be neat and professional in appearance and trimmed to a length that cannot be grabbed by an assailant.

1023.2.2 PERSONAL HYGIENE

Personal hygiene is essential to maintain a professional image. Employees shall maintain a hygienic, clean, presentable appearance. Such hygiene includes a regular bath/shower, use of deodorant/anti-perspirant and appropriate oral hygiene.

1023.2.3 FACIAL HAIR

Facial hair shall be neatly groomed and trimmed, unless authorized by the Chief Probation Officer or his/her designee.

1023.2.4 FINGERNAILS

Fingernails shall remain clean, trimmed and not exceed a length that would interfere with the operation of safety equipment.

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1023.2.5 JEWELRY AND ACCESSORIES

No jewelry or personal ornaments shall be worn by officers on any part of the uniform or equipment, except those authorized within this manual. Jewelry, if worn around the neck, shall not be visible above the shirt collar.

1023.3 TATTOOS

While on-duty or representing the Department in any official capacity, every reasonable effort should be made to conceal tattoos or other body art. At no time while on-duty or representing the Department in any official capacity, shall any offensive tattoo or body art be visible. Examples of offensive tattoos would include, but not be limited to, those which depict racial, sexual, discriminatory, gang related, or obscene language.

1023.4 BODY PIERCING OR ALTERATION

Body piercing or alteration to any area of the body visible in any authorized uniform or attire that is a deviation from normal anatomical features and which is not medically required is prohibited. Such body alteration includes, but is not limited to:

- (a) Tongue splitting or piercing.
- (b) The complete or transdermal implantation of any material other than hair replacement.
- (c) Abnormal shaping of the ears, eyes, nose or teeth
- (d) Branding or scarification.

Dress Code and Department Issued Clothing and Equipment

1024.1 PURPOSE AND SCOPE

It is the policy of the Tuolumne County Probation Department that employees present an appropriate and professional image. Staff must represent to the public and to other agencies the professional standard and image of the Department. It is also important that our staff model appropriate dress for the probationers seen on a daily basis. Staff should be aware of the need to present a neat and well-groomed image to the courts and the public. The uniform policy of the Tuolumne County Probation Department is established to ensure that sworn staff, Probation Aides and Work Release Coordinators will be readily identifiable to the public through the proper use and wearing of department-issued shirts. Employees should also refer to the Department Owned and Personal Property, Body Armor, and Personal Appearance Standards policies.

The Tuolumne County Probation Department will provide uniform shirts for all employees required to wear them in accordance with this policy.

1024.2 WEARING AND CONDITION OF UNIFORM AND EQUIPMENT

Probation Officers wear department-issued clothing to be identified as law enforcement officers when carrying out field operations. The uniform also serves an equally important purpose to identify the wearer as a source of assistance in an emergency, crisis or other time of need.

- (a) Uniform and equipment shall be maintained in a serviceable condition and shall be ready at all times for immediate use. Uniforms shall be neat, clean, and appear professional.
- (b) All peace officers of this department shall possess and maintain at all times, a serviceable uniform and the necessary equipment to perform uniformed field duty.
- (c) Uniforms are only to be worn while on duty, while in transit to or from work, for court, or at other official department functions or events.
- (d) An outer garment shall be worn over the uniform shirt so as not to bring attention to the employee while he/she is off-duty, on a break or on lunch break.
- (e) Supervising Probation Officers will perform periodic inspections of department-issued clothing and equipment to ensure conformance to these regulations.
- (f) Employees are not to purchase or drink alcoholic beverages while wearing any part of the Department uniform.
- (g) Jewelry worn by employees must be appropriate so as to not detract from a professional appearance. Officers not engaged in detention or field activities may wear jewelry, but should ensure that dangling jewelry or necklaces do not compromise their safety. Officers engaged in detention supervision or field activities shall not wear hoop, dangling earrings or bracelets, nor necklaces that may represent a choking hazard during a personal assault. All facial piercing jewelry such as nose piercing,

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tongue piercing, eyebrow piercing, lip piercing, or any other facial piercing jewelry is prohibited.

1024.2.1 DEPARTMENT ISSUED IDENTIFICATION

The Department issues each employee an official department identification card bearing the employee's name, identifying information and photo likeness. All employees shall be in possession of their department issued identification card at all times while on duty.

- (a) When on duty or acting in an official capacity representing the department, employees shall display their department-issued identification in a courteous manner to any person upon request and as soon as practical.
- (b) Officers working specialized assignments may be excused from the possession and display requirements when directed by their Adult or Juvenile Division Manager.

1024.3 UNIFORM AND CLOTHING STANDARDS

Clothing should be neat and clean at all times. Clothing should not be torn, faded, frayed or in obvious need of repair. The style of clothing worn shall not be of a revealing or suggestive nature. This includes low cut clothing, tight fitting tops and short skirts. Clothing shall not contain messages promoting profanity, illegal activities or inappropriate behavior.

1024.3.1 FIELD SUPERVISION OFFICERS

The following shall be worn by officers conducting field work where there is direct contact and visibility with the public:

- (a) Department-approved issued shirt with the embroidered badge clearly visible on the shirt.
- (b) Pants that appear neat and clean without any visible holes or rips. Jeans will not be worn with the exception of casual Fridays.
- (c) Closed toed shoes or boots. Platform and high heels are not acceptable.
- (d) Officers not wearing clothing identifying them as peace officers shall wear their department-issued badge on the belt or around the neck.
- (e) Officers may wear a mourning band upon their badge to honor fallen officers of this or other departments. Such mourning bands shall consist of a black elastic band worn horizontally across the center arrowhead portion of the badge, from the date of the end of watch to conclusion of funeral services. Such bands shall be worn at any other time officers attend or participate in ceremonies to honor fallen officers.

Officers assigned to the high-risk team shall wear the approved uniform while conducting field activities.

1024.3.2 COURT OFFICERS

The following shall be worn by officers in the Court Unit when working in the office:

- (a) A department-approved shirt or neat and clean shirt/blouse. T-shirts are not acceptable.

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- (b) Pants, dress, skirt without any holes or rips. Jeans and/or athletic shoes will not be worn with the exception of casual Fridays or with prior approval of a manager or Chief Probation Officer.
- (c) Closed toe shoes. Sandals, flip-flops and slippers are not acceptable. Heels should be no more than three inches high. Sandals intended as women's dress wear are appropriate, and a manufactured back strap is not necessarily required, but the sandals may not be in the style of flip-flops.

1024.3.3 COURTROOM ATTIRE

The following shall be worn when officially appearing in Superior Court to testify or as a Court Officer:

- (a) Button shirt with collar and tie or blouse
- (b) Dress pants/slacks, dress, or skirt
- (c) Sports coat or suit jacket
- (d) Dress shoes

1024.3.4 SUPPORT STAFF AND NON-SWORN PERSONNEL

The following shall be worn by office staff:

- (a) Clean and neat shirt or blouse. T-shirts are not acceptable.
- (b) Clean pants without holes or rips, skirt or dress. Jeans and/or athletic shoes are only to be worn on Casual Friday or with prior approval of a manager or Chief Probation Officer.
- (c) Footwear may not include flip-flops, casual sandals, or slipper type shoes/boots. Heels should be no more than three inches high. Sandals intended as women's dress wear are appropriate, and a manufactured back strap is not necessarily required, but the sandals may not be in the style of flip-flops.

The following shall be worn by Probation Aides and Work Release staff:

- (a) Department-approved shirt
- (b) Clean and neat pants or jeans
- (c) Closed toe shoes/boots
- (d) Department-issued hats

Variations from this order are allowed at the discretion of the Chief Probation Officer or designee when the employee's assignment or current task is not conducive to the wearing of such clothing. No item of civilian attire may be worn on duty that would adversely affect the reputation of the Tuolumne County Probation Department or the morale of the employees.

1024.4 POLITICAL ACTIVITIES, ENDORSEMENTS, AND ADVERTISEMENTS

Unless specifically authorized by the Chief Probation Officer, Tuolumne County Probation Department employees may not wear any part of the uniform, be photographed wearing any part of the uniform, utilize a department badge, patch or other official insignia, or cause to be posted,

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published, or displayed, the image of another employee, or identify himself/herself as an employee of the Tuolumne County Probation Department to do any of the following (Government Code §§ 3206 and 3302):

- (a) Endorse, support, oppose, or contradict any political campaign or initiative.
- (b) Endorse, support, oppose, or contradict any social issue, cause, or religion.
- (c) Endorse, support, or oppose, any product, service, company or other commercial entity.
- (d) Appear in any commercial, social, or non-profit publication, or any motion picture, film, video, public broadcast, or any website.

1024.5 OPTIONAL EQUIPMENT - MAINTENANCE, AND REPLACEMENT

- (a) Any optional equipment and/or clothing must be approved by the Chief Probation Officer and shall be documented by the Supervising Probation Officer assigned to inventory. All equipment and/or clothing bearing the Department logo/insignia shall be considered County property whether purchased by the Department or employee.
- (b) Replacement of items listed in this order as optional shall be done as follows:
 - 1. When the item is no longer functional because of normal wear and tear, the employee bears the full cost of replacement.
 - 2. When the item is no longer functional because of damage in the course of the employee's duties, it shall be replaced following the procedures for the replacement of damaged personal property.

1024.6 UNAUTHORIZED UNIFORMS, EQUIPMENT AND ACCESSORIES

Tuolumne County Probation Department employees may not wear any uniform item, accessory or attachment while on duty or acting in an official capacity representing the Department, unless specifically authorized in this policy or by the Chief Probation Officer or his/her designee.

Tuolumne County Probation Department employees may not use or carry any safety item, tool or other piece of equipment unless specifically authorized by the Chief Probation Officer or his/her designee.

Investigation Conflicts

1025.1 PURPOSE AND SCOPE

The purpose of this policy is to avoid department and individual conflicts of interest and to ensure individual privacy and confidentiality.

1025.2 POTENTIAL CONFLICT OF INTRESTS

Referrals for investigations involving the children of current or former Probation Department employees and their friends and families members which have the potential for a conflict of interest if investigated by this department shall be referred to the Division Manager within your assigned unit. The Division Manager shall determine if a potential conflict of interest exists and take the following action:

- (a) If no conflict exists, the normal investigation procedures will be followed.
- (b) If a conflict exists, then the Division Manager shall re-assign the investigation to another officer or in certain situations request the Chief Probation Officer make arrangements with another probation department to investigate the case.

Nepotism and Conflicting Relationships

1026.1 PURPOSE AND SCOPE

The purpose of this policy is to ensure equal opportunity and effective employment practices by avoiding actual or perceived favoritism, discrimination or actual or potential conflicts of interest by or between employees of this department. These employment practices include: recruiting, testing, hiring, compensation, assignment, use of facilities, access to training opportunities, supervision, performance appraisal, discipline and workplace safety and security.

1026.1.1 DEFINITIONS

Business relationship - Serving as an employee, independent contractor, compensated consultant, owner, board member, shareholder, or investor in an outside business, company, partnership, corporation, venture or other transaction, where the Department employee's annual interest, compensation, investment or obligation is greater than \$250.

Conflict of interest - Any actual, perceived or potential conflict of interest in which it reasonably appears that a department employee's action, inaction or decisions are or may be influenced by the employee's personal or business relationship.

Nepotism - The practice of showing favoritism to relatives over others in appointment, employment, promotion or advancement by any public official in a position to influence these personnel decisions.

Personal relationship - Includes marriage, cohabitation, dating or any other intimate relationship beyond mere friendship.

Public official - A supervisor, officer or employee vested with authority by law, rule or regulation or to whom authority has been delegated.

Relative - An employee's parent, stepparent, spouse, domestic partner, significant other, child (natural, adopted or step), sibling or grandparent.

Subordinate - An employee who is subject to the temporary or ongoing direct or indirect authority of a supervisor.

Supervisor - An employee who has temporary or ongoing direct or indirect authority over the actions, decisions, evaluation and/or performance of a subordinate employee.

1026.2 RESTRICTED DUTIES AND ASSIGNMENTS

The Department will not prohibit all personal or business relationships between employees. However, in order to avoid nepotism or other inappropriate conflicts, the following reasonable restrictions shall apply (Government Code § 12940):

- (a) Employees are prohibited from directly supervising, occupying a position in the line of supervision or being directly supervised by any other employee who is a relative or with whom they are involved in a personal or business relationship.

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- (b) Employees are prohibited from participating in, contributing to or recommending promotions, assignments, performance evaluations, transfers or other personnel decisions affecting an employee who is a relative or with whom they are involved in a personal or business relationship.
- (c) Whenever possible, trainers will not be assigned to train relatives. Trainers are prohibited from entering into or maintaining personal or business relationships with any employee they are assigned to train until such time as the training has been successfully completed and the employee is off probation.
- (d) To avoid actual or perceived conflicts of interest, employees of this department shall refrain from developing or maintaining personal or financial relationships with people under supervision, victims, witnesses or other individuals during the course of or as a direct result of any official contact.
- (e) Except as required in the performance of official duties or, in the case of immediate relatives, employees shall not develop or maintain personal or financial relationships with any individual they know or reasonably should know is under criminal investigation, is a person under supervision, fugitive or registered sex offender or who engages in serious violations of state or federal laws.
- (f) No employee will investigate, supervise or otherwise process cases involving members of their immediate or extended family or personal friends and associates. It is the duty of every employee to immediately bring any such potential conflict to the attention of their supervisor.
- (g) Becoming involved, interfering, or accessing departmental records with any case not assigned to that person except when necessary to carry out peace officer duties.

1026.2.1 EMPLOYEE RESPONSIBILITY

Prior to entering into any personal or business relationship or other circumstance which the employee knows or reasonably should know could create a conflict of interest or other violation of this policy, the employee shall promptly notify his/her immediate supervisor.

Whenever any employee is placed in circumstances that would require the employee to take enforcement action or provide official information or services to any relative or individual with whom the employee is involved in a personal or business relationship, the employee shall promptly notify his/her immediate supervisor.

There are no prohibitions regarding other social contact between employees of all levels within the Department. All employees should be cautious, however, not to allow social contacts with other department employees to interfere with the efficient, objective performance of their duties.

1026.2.2 SUPERVISOR'S RESPONSIBILITY

Upon being notified of, or otherwise becoming aware of any circumstance that could result in or constitute an actual or potential violation of this policy, a supervisor shall take all reasonable

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steps to promptly mitigate or avoid such violations whenever possible. Supervisors shall also promptly notify the Chief Probation Officer of such actual or potential violations through the chain of command.

Personal Relationships with Clients

1027.1 PURPOSE AND SCOPE

The purpose of this policy is to avoid potential conflicts of interest in dealing with department clientele. It is the policy of the Probation Department to maintain all employee-client relationships on a professional level.

1027.2 EMPLOYEE-CLIENT RELATIONSHIPS

- (a) No employee will investigate, supervise or otherwise process cases involving members of their immediate or extended family or personal friends and associates. It is the duty of every employee to immediately bring any such potential conflict to the attention of their Division Manager.
- (b) Upon being advised of such a conflict, the Division Manager, in consultation with the Chief Probation Officer, will determine if the case in question can be reassigned within the Department or if another probation department should be requested to handle the case.

1027.2.1 PROHIBITED PRACTICES

Except in unusual circumstances authorized by the Chief Probation Officer in writing, all personnel are prohibited from engaging in the following practices:

- (a) Knowingly initiate social or business relationships with department clientele.
- (b) Becoming involved in or interfering with any case not assigned to that person, except with the consent of the assigned employee or in accordance with usual department program implementation.

Department Badges

1028.1 PURPOSE AND SCOPE

The Tuolumne County Probation Department badge and uniform patch as well as the likeness of these items and the name of the Tuolumne County Probation Department are property of the Department and their use shall be restricted as set forth in this policy.

1028.2 POLICY

The uniform badge shall be issued to department employees as a symbol of authority and the use and display of departmental badges shall be in strict compliance with this policy. Only authorized badges issued by this department shall be displayed, carried or worn by employees while on duty or otherwise acting in an official or authorized capacity.

1028.2.1 CIVILIAN PERSONNEL

Badges and departmental identification cards issued to non-sworn personnel shall be clearly marked to reflect the position of the assigned employee (e.g. Work Release Coordinator).

- (a) Non-sworn personnel shall not display any department badge except as a part of his/her uniform and while on duty, or otherwise acting in an official and authorized capacity.
- (b) Non-sworn personnel shall not display any department badge or represent him/herself, on or off duty, in such a manner which would cause a reasonable person to believe that he/she is a sworn peace officer.

1028.3 UNAUTHORIZED USE

Except as required for on-duty use by current employees, no badge designed for carry or display in a wallet, badge case or similar holder shall be issued to anyone other than a current or honorably retired peace officer.

Department badges are issued to all sworn employees for official use only. The department badge, uniform patch or the likeness thereof, or the department name shall not be used for personal or private reasons including, but not limited to, letters, memoranda, and electronic communications such as electronic mail or web sites and web pages.

The use of the badge, uniform patch and department name for all material (printed matter, products or other items) developed for department use shall be subject to approval by the Chief Probation Officer.

Employees shall not loan his/her department badge or identification card to others and shall not permit the badge or identification card to be reproduced or duplicated.

Modified Duty Assignments

1029.1 PURPOSE AND SCOPE

The purpose of this policy is to establish procedures for assigning employees to modified duty. Temporary modified-duty assignments may be available to employees who have incurred a duty-related illness or injury and, due to restrictions or limitations, are unable to perform their regular assigned duties. Non-duty related illnesses or injuries may also be considered for eligibility in accordance with this policy. Eligibility for modified-duty assignment is subject to the approval of the Chief Probation Officer or his/her designee.

Modified-duty assignments are intended to provide an employee with the ability to continue working within the limits of his/her restrictions and limitations on a temporary basis while providing the Department with a productive employee during the interim period.

The Human Resources Department will engage in a good faith interactive process to consider reasonable accommodations for any employee with a temporary or permanent disability.

1029.2 DEFINITIONS

Modified Duty - Means a temporary, limited-term assignment not requiring performance of the full range of duties associated with the regular job classification. Modified duty also may be termed as light-duty assignments.

1029.3 LIMITATIONS

Modified-duty assignments are a management prerogative and not an employee right. Modified-duty assignments shall be subject to continuous re-assessment dependent upon Department need and the employee's ability to perform in a modified-duty capacity.

An injured employee may be assigned to a modified-duty position outside of his/her normal assignment or duties if it becomes available. If the injury or illness is non-duty related, the employee may be given the option for modified duty.

- (a) If an employee cannot adequately perform in a modified-duty assignment, such assignment may be modified or terminated.
- (b) The lack of Department need or a change in priorities may result in the employee's removal from or modification of a modified-duty assignment.
- (c) The Department may place conditions as deemed appropriate upon any modified-duty assignment.

1029.4 PROCEDURE

Employees may request assignment to modified duty by providing a signed statement from their health care provider describing their restrictions, limitations and expected duration to their Manager and Human Resources. The statement must also indicate if the employee requires any workplace accommodations, mobility aids or medical devices.

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The Manager, in consultation with the Chief Probation Officer and Human Resources, will determine what modified-duty assignments may be available based on the needs of the Department, limitations of the employee and suitability of the employee to work a particular assignment. Requests for a modified-duty assignment may be approved and facilitated by the Manager with the approval of the Chief Probation Officer and Human Resources.

1029.4.1 MODIFIED-DUTY SCHEDULES

The schedules of employees assigned to an approved modified duty may be adjusted to suit medical appointments or Department needs at the discretion of the Manager.

The employee and his/her supervisor should be informed in writing of the schedule, assignment and limitations and restrictions as determined by the employee's health care provider.

1029.4.2 ACCOUNTABILITY

The employee's Manager shall coordinate efforts to ensure proper time accountability.

- (a) Employees on modified duty are responsible for coordinating required doctor visits and physical therapy appointments in advance with their Manager to appropriately account for any duty time taken. Doctor visits and appointments for treatment of injuries or illnesses that are not work related shall be arranged during off-duty time or otherwise charged to the employee's sick leave.
- (b) Employees shall immediately notify their Manager of any change in restrictions or limitations as determined by their health care provider. An employee assigned to a modified-duty assignment shall provide a status report to their Manager or Chief Probation Officer no less than once every 30 days while the employee is on modified duty or as otherwise scheduled by the workers' compensation medical provider.
- (c) Managers shall keep the Chief Probation Officer apprised of the employee's status and ability to perform the modified-duty assignment as well as an anticipated date of return to regular duty.
- (d) When it is determined that an employee on modified duty will return to regular duty, the Manager shall notify the Chief Probation Officer and Human Resources. All training and certification necessary for return to duty shall be reviewed and updated as necessary.

1029.4.3 MEDICAL EXAMINATIONS

Prior to returning to full duty status, a fitness-for-duty examination of any employee assigned to a modified-duty assignment, or having been on such an assignment, may be required as authorized by law. The Chief Probation Officer and/or Manager shall consult with the Human Resources Department to determine the need for such an examination.

Prior to returning to full-duty status, employees shall be required to provide a statement signed by their health care provider indicating that they are medically cleared to perform the basic and essential job functions of their assignment without restriction or limitation.

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Modified Duty Assignments

1029.5 PREGNANCY

It is the policy of the Department to reassign employees who are pregnant upon request by the employee or when deemed necessary by the Department to temporary assignments that will not routinely expose the employee to potentially hazardous environments or activities.

1029.5.1 EMPLOYEE NOTIFICATION

An employee who learns of her pregnancy should notify her immediate supervisor or a designated acting supervisor of the pregnancy as soon as practicable. The employee must inform the Department of her intent regarding reassignment, job accommodations and anticipated leave for the pregnancy or prenatal care. The employee shall also submit a statement from her health care provider of any job restrictions or limitations she may have.

1029.5.2 SUPERVISOR/MANAGER RESPONSIBILITY

Upon receiving medical verification of the pregnancy and a request for job accommodation, reassignment or leave, the Manager shall notify the Chief Probation Officer, who will consider assigning the employee to an available temporary modified-duty assignment if it is deemed appropriate by the Department or medically necessary by the employee's health care provider.

If at any point during the pregnancy it becomes necessary for the employee to take a leave of absence, such leave shall be granted consistent with the County's Personnel Rules and Regulations and the employee's respective MOUs regarding family and medical care leave and/or pregnancy disability leave and/or California Family Rights Act provisions.

1029.6 PROBATIONARY EMPLOYEES

Probationary employees who are assigned to a temporary modified-duty assignment shall have their probation extended by a period of time equal to the employee's assignment to modified duty.

1029.7 MAINTENANCE OF CERTIFICATION AND TRAINING

Employees assigned to modified duty shall maintain all certification, training and qualifications appropriate to both their regular and temporary duties, provided the certification, training or qualifications are not in conflict with any limitations or restrictions. Employees who are assigned to modified duty shall inform their Manager of any inability to maintain any certification, training or qualifications.

Employee Speech, Expression and Social Networking

1030.1 PURPOSE AND SCOPE

This policy is intended to address issues associated with employee use of social networking sites and to provide guidelines for the regulation and balancing of employee speech and expression with the needs of the Department.

Nothing in this policy is intended to prohibit or infringe upon any communication, speech or expression that is protected or privileged under law. This includes speech and expression protected under state or federal constitutions as well as labor or other applicable laws. For example, this policy does not limit an employee from speaking as a private citizen, including acting as an authorized member of a recognized bargaining unit or officer associations, about matters of public concern, such as misconduct or corruption.

Employees are directed to read and adhere to the County's IT Policy regarding internet services/usage.

Employees are encouraged to consult with their supervisor regarding any questions arising from the application or potential application of this policy.

1030.1.1 APPLICABILITY

This policy applies to all forms of communication including, but not limited to, film, video, print media, public or private speech, use of all Internet services, including the World Wide Web, e-mail, file transfer, remote computer access, news services, social networking, social media, instant messaging, blogs, forums, video and other file-sharing sites.

1030.2 POLICY

Public employees occupy a trusted position in the community, and thus, their statements have the potential to contravene the policies and performance of this department. Due to the nature of the work and influence associated with the law enforcement profession, it is necessary that employees of this department be subject to certain reasonable limitations on their speech and expression. To achieve its mission and efficiently provide service to the public, the Tuolumne County Probation Department will carefully balance the individual employee's rights against the Department's needs and interests when exercising a reasonable degree of control over its employees' speech and expression.

1030.3 SAFETY

Employees should consider carefully the implications of their speech or any other form of expression when using the Internet. Speech and expression that may negatively affect the safety of the Tuolumne County Probation Department employees, such as posting personal information in a public forum, can result in compromising an employee's home address or family ties. Employees should therefore not disseminate or post any information on any forum or medium

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that could reasonably be anticipated to compromise the safety of any employee, an employee's family or associates. Examples of the type of information that could reasonably be expected to compromise safety include:

- Disclosing a photograph of another officer/employee.
- Disclosing the address of another officer/employee.
- Otherwise disclosing where another officer/employee can be located off-duty.
- Disclosing information regarding another officer/employee's family members.

1030.4 PROHIBITED SPEECH, EXPRESSION AND CONDUCT

To meet the department's safety, performance and public-trust needs, the following is prohibited unless the speech is otherwise protected (for example, an employee speaking as a private citizen, including acting as an authorized member of a recognized bargaining unit or officer associations, on a matter of public concern):

- (a) Speech or expression made pursuant to an official duty that tends to compromise or damage the mission, function, reputation or professionalism of the Tuolumne County Probation Department or its employees.
- (b) Speech or expression that, while not made pursuant to an official duty, is significantly linked to, or related to, the Tuolumne County Probation Department and tends to compromise or damage the mission, function, reputation or professionalism of the Tuolumne County Probation Department or its employees.
- (c) Speech or expression that could reasonably be foreseen as having a negative impact on the credibility of the employee as a witness. For example, posting statements or expressions to a website that glorify or endorse dishonesty, unlawful discrimination or illegal behavior.
- (d) Speech or expression of any form that could reasonably be foreseen as having a negative impact on the safety of the employees of the Department. For example, a statement on a blog that provides specific details as to how and when transportations are made could reasonably be foreseen as potentially jeopardizing employees by informing offenders of details that could facilitate an escape or attempted escape.
- (e) Speech or expression that is contrary to the canons of the Law Enforcement Code of Ethics as adopted by the Tuolumne County Probation Department.
- (f) Use or disclosure, through whatever means, of any information, photograph, video or other recording obtained or accessible as a result of employment with the Department for financial or personal gain, or any disclosure of such materials without the express authorization of the Chief Probation Officer or the authorized designee.
- (g) Posting, transmitting or disseminating any photographs, video or audio recordings, likenesses or images of department logos, emblems, uniforms, badges, patches,

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Employee Speech, Expression and Social Networking

marked vehicles, equipment or other material that specifically identifies the Tuolumne County Probation Department on any personal or social networking or other website or web page, without the express authorization of the Chief Probation Officer.

- (h) Accessing websites for non-authorized purposes, or use of any personal communication device, game device or media device, whether personally or department-owned, for personal purposes while on-duty, except in the following circumstances:
 - 1. When brief personal communication may be warranted by the circumstances (e.g., inform family of extended hours).
 - 2. During authorized breaks such usage should be limited as much as practicable to areas out of sight and sound of the public and shall not be disruptive to the work environment

Employees must take reasonable and prompt action to remove any content, including content posted by others, that is in violation of this policy from any web page or website maintained by the employee (e.g., social or personal website).

1030.4.1 UNAUTHORIZED ENDORSEMENTS AND ADVERTISEMENTS

While employees are not restricted from engaging in the following activities as private citizens or as authorized members of a recognized bargaining unit or officer associations, employees may not represent the Tuolumne County Probation Department or identify themselves in any way that could be reasonably perceived as representing the Tuolumne County Probation Department in order to do any of the following: (Government Code § 3206; Government Code § 3302):

- (a) Endorse, support, oppose or contradict any political campaign or initiative.
- (b) Endorse, support, oppose or contradict any social issue, cause or religion.
- (c) Endorse, support or oppose any product, service, company or other commercial entity.

An employee wishing to appear in any of the following must receive prior authorization from the Chief Probation Officer:

- (a) Commercial, educational or non-profit publication
- (b) Motion picture, film, video or public broadcast
- (c) On any website in any manner where it could be reasonably perceived that the employee is representing the Tuolumne County Probation Department

Additionally, when it can reasonably be construed that an employee, acting in his/her individual capacity or through an outside group or organization (e.g., bargaining group or officer associations), is affiliated with this department, the employee shall give a specific disclaiming statement that any such speech or expression is not representative of the Tuolumne County Probation Department.

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Employees retain their right to vote as they choose, to support candidates of their choice and to express their opinions as private citizens, including as authorized members of a recognized bargaining unit or officer associations, on political subjects and candidates at all times while off-duty.

However, employees may not use their official authority or influence to interfere with or affect the result of an election or a nomination for office. Employees are also prohibited from directly or indirectly using their official authority to coerce, command or advise another employee to pay, lend or contribute anything of value to a party, committee, organization, agency or person for political purposes (5 USC § 1502).

1030.5 PRIVACY EXPECTATION

Employees forfeit any expectation of privacy with regard to e-mails, texts or anything published or maintained through file-sharing software or any Internet site (e.g., Facebook, MySpace) that is accessed, transmitted, received or reviewed on any department technology system.

The Department reserves the right to access, audit and disclose for whatever reason any message, including attachments, and any information accessed, transmitted, received or reviewed over any technology that is issued or maintained by the Department. This includes the department e-mail system, computer network or any information placed into storage on any department system or device.

It also includes records of all key strokes or web-browsing history made at any department computer or over any department network.

The fact that access to a database, service or website requires a user name or password will not create an expectation of privacy if it is accessed through a department computer or network. However, the Department may not require an employee to disclose a personal user name or password or open a personal social website, except when access is reasonably believed to be relevant to the investigation of allegations of work related misconduct (Labor Code § 980).

1030.6 TRAINING

Subject to available resources, the Department should provide training regarding employee speech and the use of social networking to all members of the Department.

1030.7 PUBLIC SPEAKING

The Probation Department is committed to a policy of providing the public with information regarding the programs and operations of the Department and encourages staff to appear before groups and meetings to disseminate such information.

Assignment of public speaking engagements:

- (a) When the Department administration receives a request for a public speaker, an appropriate employee of the department may volunteer or be assigned, through their supervisor, to respond to the request.

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- (b) Employees receiving direct requests should clear the speaking engagement with their supervisor.
- (c) All employees making public speaking appearances should remember that they are representing the Chief Probation Officer and their statements must be consistent with the policies and positions of the Chief Probation Officer.

Employees Acting as Foster Parents

1031.1 PURPOSE AND SCOPE

The purpose of this policy is to avoid potential conflicts of interest and to protect individual employee rights.

1031.2 FOSTER CARE FOR WARDS OF THE COURT

Probation Department employees are prohibited from becoming foster parents for any child placed by the Juvenile Court pursuant to Welfare and Institutions Code § 727 who has been adjudged a Court ward under Welfare and Institutions Code § 601 or § 602.

1031.3 FOSTER CARE FOR DEPENDENTS OF THE COURT

Probation Department employees may become foster parents for children placed by the Juvenile Court through the County Department of Social Services who have been adjudged dependents of the court under Welfare and Institutions Code § 300.

- (a) Such employees may receive additional compensation from the county at the usual foster care rate.
- (b) Such employees must be licensed directly by the State Department of Social Services in order to avoid any potential conflicts at the county level.

Unpaid Leave of Absence

1032.1 PURPOSE AND SCOPE

The purpose of this policy is to establish policies for employees taking unpaid leaves of absence.

1032.2 UNPAID LEAVE GUIDELINES

- (a) Leaves of Absence. A leave of absence without pay for a period of not more than 26 consecutive pay periods may be granted to an employee for the reason of:
 - 1. Engaging in a relevant course of study which will enhance the employee's value to the County; or
 - 2. Other reason as determined to be appropriate by the employee's Chief Probation Officer and approved by the County Administrator.
- (b) Administration of Leave of Absence Without Pay.
 - 1. Request. Leaves for purposes described above may be granted for periods approved by the Chief Probation Officer and County Administrator. A request for such leave must be in writing and requires the approval of the Chief Probation Officer and the County Administrator.
 - 2. Return Rights. Leaves of absence without pay may be granted to a permanent employee either with or without the right to return to classification. At the expiration of leaves without the right to return, the employee must contact the Human Resources Manager for consideration of having his/her name referred for a 90 calendar day period to all job vacancies in the employee's classification for reemployment without examination. If approved, such an employee must be hired within this 90 day period or be terminated. An employee returning to the County after such leave, with or without the right to return, shall retain the seniority that employee had prior to the leave, but will not accrue additional seniority during the period of the leave, and is not guaranteed to return to the same position he/she occupied prior to the leave. Leaves of absence without the right to return may be granted to probationary employees.
 - 3. Benefits. When an employee is on such a leave of absence without pay or without right to return to classification, the employee shall accrue no employee benefits, no seniority, no time toward salary step advancement, and shall pay the full premium of his/her health and welfare program prorated on a daily basis, if coverage is continued by the employee. If health and welfare is dropped during a leave of absence, the employee may be subject to restrictions imposed by the insurance carrier upon return.

Military Leave

1033.1 PURPOSE AND SCOPE

The purpose of this policy is to establish policies for allowing employees to meet military obligations.

1033.2 POLICY

Requests for such leave must be made as far in advance as possible and must be accompanied by a copy of the employee's military orders.

In addition to the above, the employee should refer to the respective Memorandum of Understanding available on the County website.

Jury Duty

1034.1 PURPOSE AND SCOPE

The purpose of this policy is to establish procedures for employees called to serve as jurors. Employees are encouraged to refer to their respective MOUs for additional clarification.

1034.2 REQUIREMENTS

- (a) An employee who is called for jury duty will receive full salary and benefits provided the employee waives the usual juror fee. Employees called for jury duty must inform their supervisor immediately when called for such duty or released from jury duty.
- (b) Jury duty time will be reported as such on the employee's time sheet.

Illness and Injury Prevention

1035.1 PURPOSE AND SCOPE

The County of Tuolumne's Injury and Illness Prevention Program (IIPP) is the governing document for all county departments. This policy provides the essential framework required for an IIPP. This policy can be located in the reception area of each Probation Department Office.

Attachments

Commission on Peace Officer Standards and Training Hate Crimes Model Policy 2019.pdf

Retention Schedule.png

| | | | | RETENTION PERIOD AND DISPOSITION OF RECORDS | | | | | | |
|------------------------------------|---|---|--|---|-------------------------------|---|--------------------------|-----------------------|--|---|
| Department Responsible For Records | Departmental or County Tracking Information | Title and Description of Records | Statutory or Other Authority Controlling Retention | Active When in Department | Inactive When Stored Off-Site | Total Retention | Type of Records Material | Records Can Be Imaged | May Destroy Paper Records After Imaged | Comments and Notes |
| | | | | | | | | | | |
| Probation | | RECEIPTS, DEPOSIT PERMITS, CASH DRAWER DAILY BALANCING SHEETS AND MONTHLY CASH STATEMENTS | Government Code § 26201 | 1 year | 1 year | 2 years | Paper | Yes | | |
| Probation | | ADULT PROBATION CASE FILES | | Duration of Probation Term | | Completion + 5 years. | Paper | Yes | | Probation and Court maintain originals. |
| Probation | | COURTESY SUPERVISION PROBATION CASE FILES (Adult and Juvenile) | | Duration of Probation Term | | Completion + 2 years. | Paper | Yes | | Requesting Probation Dept. and Court maintain originals. |
| Probation | | INDEX CARDS - JUVENILE (Card file of cases) | | Same as file | | Same as file | Paper | Yes | | Same as file |
| Probation | | INDEX CARDS - ADULT (Card file of cases) | | Permanent | | Permanent | Paper | Yes | | Adult Index Cards are retained permanently for future record checks. |
| Probation | | JUVENILE COURT/PROBATION CASE FILES | | Termination of Juvenile Court Jurisdiction | | Termination of Juvenile Court Jurisdiction + 5 years. | Paper | Yes | | Probation and Court maintain originals; Destruction of records varies according to offense. |
| Probation | | JUVENILE INFORMAL PROBATION CASE FILES AND INTAKES | | Closed Upon Completion | | Completion + 5 years. | Paper | Yes | | Probation and Law Enforcement maintain originals. |
| Probation | | PROBATION, PRISON & YOUTH AUTHORITY CASE FILES (Adult and Juvenile) | | Closed Upon Commitment | | Commitment Term + 5 years. | Paper | Yes | | Probation and Court maintain originals. |
| Probation | | STANDARDS AND TRAINING FOR CORRECTIONS (STC) RECORDS (Employees) | STC Policy & Procedure Manual for participating departments - Chapter II Section VII-B minimum of 3 years. Retention | Permanent | | Permanent | Paper | Yes | | |
| Probation | | WORK RELEASE, SHERIFF'S PAROLE, WORK FURLOUGH, AND COMMUNITY SERVICE WORK PROGRAMS | | Upon Completion | | Completion + 5 years. | Paper | Yes | | Probation and Court maintain originals. |
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*If no statutory authority is cited, use Government Code section 26202

Statutes and Legal Requirements.pdf

Hate Crime Checklist.pdf

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